PUBLIC LAW 101-649—NOV. 29, 1990

# IMMIGRATION ACT OF 1990

Public Law 101-649
101st Congress

# An Act

Nov. 29, 1990
[S. 358]

To amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Immigration Act of 1990.
Passports and visas.
8 USC 1101 note.

**SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Immigration Act of 1990".

(b) REFERENCES IN ACT.—Except as specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to or repeal of a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:



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# TITLE I—IMMIGRANTS

## Subtitle A—Worldwide and Per Country Levels

### SEC. 101. WORLDWIDE LEVELS.

(a) IN GENERAL.—Section 201 (8 U.S.C. 1151) is amended to read as follows:

"WORLDWIDE LEVEL OF IMMIGRATION

"SEC. 201. (a) IN GENERAL.—Exclusive of aliens described in subsection (b), aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(1) family-sponsored immigrants described in section 203(a) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a)) in a number not to exceed in any fiscal year the number specified in subsection (c) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year;

"(2) employment-based immigrants described in section 203(b) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b)), in a number not to exceed in any fiscal year the number specified in subsection (d) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year; and

"(3) for fiscal years beginning with fiscal year 1995, diversity immigrants described in section 203(c) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(c)) in a number not to exceed in any fiscal year the number specified in subsection (e) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year.

"(b) ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATIONS.—Aliens described in this subsection, who are not subject to the worldwide levels or numerical limitations of subsection (a), are as follows:

"(1)(A) Special immigrants described in subparagraph (A) or (B) of section 101(a)(27).

"(B) Aliens who are admitted under section 207 or whose status is adjusted under section 209.

"(C) Aliens whose status is adjusted to permanent residence under section 210, 210A, or 245A.

"(D) Aliens whose deportation is suspended under section 244(a).

"(E) Aliens provided permanent resident status under section 249.

"(2)(A)(i) IMMEDIATE RELATIVES.—For purposes of this subsection, the term 'immediate relatives' means the children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age. In the case of an alien who was the spouse of a citizen of the United States for at least 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, the alien shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death but only if the spouse files a petition under section 204(a)(1)(A) within 2 years after such date and only until the date the spouse remarries.

"(ii) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative.

"(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.

"(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—(1)(A) The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is, subject to subparagraph (B), equal to—

"(i) 480,000, minus

"(ii) the number computed under paragraph (2), plus

"(iii) the number (if any) computed under paragraph (3).

"(B)(i) For each of fiscal years 1992, 1993, and 1994, 465,000 shall be substituted for 480,000 in subparagraph (A)(i).

"(ii) In no case shall the number computed under subparagraph (A) be less than 226,000.

"(2) The number computed under this paragraph for a fiscal year is the sum of the number of aliens described in subparagraphs (A) and (B) of subsection (b)(2) who were issued immigrant visas or who otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence in the previous fiscal year.

"(3) The number computed under this paragraph for a fiscal year is the difference (if any) between the maximum number of visas which may be issued under section 203(b) (relating to employment-based immigrants) during the previous fiscal year and the number of visas issued under that section during that year.

"(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—(1) The worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to—

"(A) 140,000, plus

"(B) the number computed under paragraph (2).

"(2) The number computed under this paragraph for a fiscal year is the difference (if any) between the maximum number of visas which may be issued under section 203(a) (relating to family-sponsored immigrants) during the previous fiscal year and the number of visas issued under that section during that year.

"(e) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS.—The worldwide level of diversity immigrants is equal to 55,000 for each fiscal year.".

(b) CLERICAL AMENDMENT.—The item in the table of contents relating to section 201 is amended to read as follows:

"Sec. 201. Worldwide level of immigration.".

**SEC. 102. PER COUNTRY LEVELS.**

Section 202 (8 U.S.C. 1152) is amended—

(1) by amending subsection (a) to read as follows:

"(a) PER COUNTRY LEVEL.—

"(1) NONDISCRIMINATION.—Except as specifically provided in paragraph (2) and in sections 101(a)(27), 201(b)(2)(A)(i), and 203, no person shall receive any preference or priority or be discriminated against in the issuance of an immigrant visa because of the person's race, sex, nationality, place of birth, or place of residence.

"(2) PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—Subject to paragraphs (3) and (4), the total number of immigrant visas made available to natives of any single foreign state or dependent area under subsections (a) and (b) of section 203 in any fiscal year may not exceed 7

percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas made available under such subsections in that fiscal year.

"(3) EXCEPTION IF ADDITIONAL VISAS AVAILABLE.—If because of the application of paragraph (2) with respect to one or more foreign states or dependent areas, the total number of visas available under both subsections (a) and (b) of section 203 for a calendar quarter exceeds the number of qualified immigrants who otherwise may be issued such a visa, paragraph (2) shall not apply to visas made available to such states or areas during the remainder of such calendar quarter.

"(4) SPECIAL RULES FOR SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENT ALIENS.—

"(A) 75 PERCENT OF MINIMUM 2ND PREFERENCE SET-ASIDE FOR SPOUSES AND CHILDREN NOT SUBJECT TO PER COUNTRY LIMITATION.—

"(i) IN GENERAL.—Of the visa numbers made available under section 203(a) to immigrants described in section 203(a)(2)(A) in any fiscal year, 75 percent of the 2–A floor (as defined in clause (ii)) shall be issued without regard to the numerical limitation under paragraph (2).

"(ii) 2–A FLOOR DEFINED.—In this paragraph, the term '2–A floor' means, for a fiscal year, 77 percent of the total number of visas made available under section 203(a) to immigrants described in section 203(a)(2) in the fiscal year.

"(B) TREATMENT OF REMAINING 25 PERCENT FOR COUNTRIES SUBJECT TO SUBSECTION (e).—

"(i) IN GENERAL.—Of the visa numbers made available under section 203(a) to immigrants described in section 203(a)(2)(A) in any fiscal year, the remaining 25 percent of the 2–A floor shall be available in the case of a state or area that is subject to subsection (e) only to the extent that the total number of visas issued in accordance with subparagraph (A) to natives of the foreign state or area is less than the subsection (e) ceiling (as defined in clause (ii)).

"(ii) SUBSECTION (e) CEILING DEFINED.—In clause (i), the term 'subsection (e) ceiling' means, for a foreign state or dependent area, 77 percent of the maximum number of visas that may be made available under section 203(a) to immigrants who are natives of the state or area under section 203(a)(2) consistent with subsection (e).

"(C) TREATMENT OF UNMARRIED SONS AND DAUGHTERS IN COUNTRIES SUBJECT TO SUBSECTION (e).—In the case of a foreign state or dependent area to which subsection (e) applies, the number of immigrant visas that may be made available to natives of the state or area under section 203(a)(2)(B) may not exceed—

"(i) 23 percent of the maximum number of visas that may be made available under section 203(a) to immigrants of the state or area described in section 203(a)(2) consistent with subsection (e), or

"(ii) the number (if any) by which the maximum number of visas that may be made available under

section 203(a) to immigrants of the state or area described in section 203(a)(2) consistent with subsection (e) exceeds the number of visas issued under section 203(a)(2)(A),

whichever is greater.

"(D) LIMITING PASS DOWN FOR CERTAIN COUNTRIES SUBJECT TO SUBSECTION (e).—In the case of a foreign state or dependent area to which subsection (e) applies, if the total number of visas issued under section 203(a)(2) exceeds the maximum number of visas that may be made available to immigrants of the state or area under section 203(a)(2) consistent with subsection (e) (determined without regard to this paragraph), in applying paragraphs (3) and (4) of section 203(a) under subsection (e)(2) all visas shall be deemed to have been required for the classes specified in paragraphs (1) and (2) of such section.";

(2) in subsection (b)—

(A) by inserting "RULES FOR CHARGEABILITY.—" after "(b)", and

(B) by striking "the numerical limitation set forth in the proviso to subsection (a) of this section" each place it appears and inserting "a numerical level established under subsection (a)(2)";

(3) in subsection (c)—

(A) by inserting "CHARGEABILITY FOR DEPENDENT AREAS.—" after "(c)",

(B) by striking "a special immigrant" and all that follows through "201(b)" and inserting "an alien described in section 201(b)", and

(C) by striking ", and the number" and all that follows through "one fiscal year";

(4) in subsection (d), by inserting "CHANGES IN TERRITORY.—" after "(d)"; and

(5) by amending subsection (e) to read as follows:

"(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—If it is determined that the total number of immigrant visas made available under subsections (a) and (b) of section 203 to natives of any single foreign state or dependent area will exceed the numerical limitation specified in subsection (a)(2) in any fiscal year, in determining the allotment of immigrant visa numbers to natives under subsections (a) and (b) of section 203, visa numbers with respect to natives of that state or area shall be allocated (to the extent practicable and otherwise consistent with this section and section 203) in a manner so that—

"(1) the ratio of the visa numbers made available under section 203(a) to the visa numbers made available under section 203(b) is equal to the ratio of the worldwide level of immigration under section 201(c) to such level under section 201(d);

"(2) except as provided in subsection (a)(4), the proportion of the visa numbers made available under each of paragraphs (1) through (4) of section 203(a) is equal to the ratio of the total number of visas made available under the respective paragraph to the total number of visas made available under section 203(a); and

"(3) the proportion of the visa numbers made available under each of paragraphs (1) through (5) of section 203(b) is equal to the ratio of the total number of visas made available under the

respective paragraph to the total number of visas made available under section 203(b).

Nothing in this subsection shall be construed as limiting the number of visas that may be issued to natives of a foreign state or dependent area under section 203(a) or 203(b) if there is insufficient demand for visas for such natives under section 203(b) or 203(a), respectively, or as limiting the number of visas that may be issued under section 203(a)(2)(A) pursuant to subsection (a)(4)(A).".

**SEC. 103. TREATMENT OF HONG KONG UNDER PER COUNTRY LEVELS.** 8 USC 1152 note.

The approval referred to in the first sentence of section 202(b) of the Immigration and Nationality Act shall be considered to have been granted, effective beginning with fiscal year 1991, with respect to Hong Kong as a separate foreign state, and not as a colony or other component or dependent area of another foreign state, except that the total number of immigrant visas made available to natives of Hong Kong under subsections (a) and (b) of section 203 of such Act in each of fiscal years 1991, 1992, and 1993 may not exceed 10,000.

**SEC. 104. ASYLEE ADJUSTMENTS.**

(a) INCREASE IN NUMERICAL LIMITATION ON ADJUSTMENT OF ASYLEES.—

(1) IN GENERAL.—Section 209(b) (8 U.S.C. 1159(b)) is amended by striking "five thousand" and inserting "10,000".

(2) EFFECTIVE DATE AND TRANSITION.—The amendment made by paragraph (1) shall apply to fiscal years beginning with fiscal year 1991 and the President is authorized, without the need for appropriate consultation, to increase the refugee determination previously made under section 207 of the Immigration and Nationality Act for fiscal year 1991 in order to make such amendment effective for such fiscal year. 8 USC 1159 note.

(b) ANNUAL ASYLEE ENUMERATION.—Section 207(a) (8 U.S.C. 1157(a)) is amended by adding at the end the following new paragraph:

"(4) In the determination made under this subsection for each fiscal year (beginning with fiscal year 1992), the President shall enumerate, with the respective number of refugees so determined, the number of aliens who were granted asylum in the previous year.". President.

(c) WAIVER OF NUMERICAL LIMITATION FOR CERTAIN CURRENT ASYLEES.—The numerical limitation on the number of aliens whose status may be adjusted under section 209(b) of the Immigration and Nationality Act shall not apply to an alien described in subsection (d) or to an alien who has applied for adjustment of status under such section on or before June 1, 1990. 8 USC 1159 note.

(d) ADJUSTMENT OF CERTAIN FORMER ASYLEES.— 8 USC 1159 note.

(1) IN GENERAL.—Subject to paragraph (2), the provisions of section 209(b) of the Immigration and Nationality Act shall also apply to an alien—

(A) who was granted asylum before the date of the enactment of this Act (regardless of whether or not such asylum has been terminated under section 208(b) of the Immigration and Nationality Act),

(B) who is no longer a refugee because of a change in circumstances in a foreign state, and

(C) who was (or would be) qualified for adjustment of status under section 209(b) of the Immigration and

Nationality Act as of the date of the enactment of this A but for paragraphs (2) and (3) thereof and but for an numerical limitation under such section.

(2) APPLICATION OF PER COUNTRY LIMITATIONS.—The number aliens who are natives of any foreign state who may adju status pursuant to paragraph (1) in any fiscal year shall n exceed the difference between the per country limitation esta lished under section 202(a) of the Immigration and Nationalit Act and the number of aliens who are chargeable to that foreig state in the fiscal year under section 202 of such Act.

## Subtitle B—Preference System

## PART 1—FAMILY-SPONSORED IMMIGRANTS

### SEC. 111. FAMILY-SPONSORED IMMIGRANTS.

Section 203 (8 U.S.C. 1153) is amended—

(1) by redesignating subsections (b) through (e) as subsection (d) through (g), respectively, and

(2) by striking subsection (a) and inserting the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allotted visas as follows:

"(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a number not to exceed 23,400, plus any visas not required for the class specified in paragraph (4).

"(2) SPOUSES AND UNMARRIED SONS AND UNMARRIED DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Qualified immigrants—

"(A) who are the spouses or children of an alien lawfully admitted for permanent residence, or

"(B) who are the unmarried sons or unmarried daughters (but are not the children) of an alien lawfully admitted for permanent residence,

shall be allocated visas in a number not to exceed 114,200, plus the number (if any) by which such worldwide level exceeds 226,000, plus any visas not required for the class specified in paragraph (1); except that not less than 77 percent of such visa numbers shall be allocated to aliens described in subparagraph (A).

"(3) MARRIED SONS AND MARRIED DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed 23,400, plus any visas not required for the classes specified in paragraphs (1) and (2).

"(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, shall be allocated visas in a number not to exceed 65,000, plus any visas not required for the classes specified in paragraphs (1) through (3).".

SEC. 112. TRANSITION FOR SPOUSES AND MINOR CHILDREN OF LEGALIZED ALIENS. 8 USC 1153 note.

(a) ADDITIONAL VISA NUMBERS.—

(1) IN GENERAL.—In addition to any immigrant visas otherwise available, immigrant visa numbers shall be available in each of fiscal years 1992, 1993, and 1994 for spouses and children of eligible, legalized aliens (as defined in subsection (c)) in a number equal to 55,000 minus the number (if any) computed under paragraph (2) for the fiscal year.

(2) OFFSET.—The number computed under this paragraph for a fiscal year is the number (if any) by which—

(A) the sum of the number of aliens described in subparagraphs (A) and (B) of section 201(b)(2) of the Immigration and Nationality Act (or, for fiscal year 1992, section 201(b) of such Act) who were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence in the previous fiscal year, exceeds

(B) 239,000.

(b) ORDER.—Visa numbers under this section shall be made available in the order in which a petition, in behalf of each such immigrant for classification under section 203(a)(2) of the Immigration and Nationality Act, is filed with the Attorney General under section 204 of such Act.

(c) LEGALIZED ALIEN DEFINED.—In this section, the term "legalized alien" means an alien lawfully admitted for temporary or permanent residence who was provided—

(1) temporary or permanent residence status under section 210 of the Immigration and Nationality Act,

(2) temporary or permanent residence status under section 245A of the Immigration and Nationality Act, or

(3) permanent residence status under section 202 of the Immigration Reform and Control Act of 1986.

## PART 2—EMPLOYMENT-BASED IMMIGRANTS

SEC. 121. EMPLOYMENT-BASED IMMIGRANTS.

(a) IN GENERAL.—Section 203 (8 U.S.C. 1153) is amended by inserting after subsection (a), as inserted by section 111, the following new subsection:

"(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(d) for employment-based immigrants in a fiscal year shall be allotted visas as follows:

"(1) PRIORITY WORKERS.—Visas shall first be made available in a number not to exceed 40,000, plus any visas not required for the classes specified in paragraphs (4) and (5), to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

"(A) ALIENS WITH EXTRAORDINARY ABILITY.—An alien is described in this subparagraph if—

"(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been

recognized in the field through extensive documentation,

"(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

"(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

"(B) OUTSTANDING PROFESSORS AND RESEARCHERS.—An alien is described in this subparagraph if—

"(i) the alien is recognized internationally as outstanding in a specific academic area,

"(ii) the alien has at least 3 years of experience in teaching or research in the academic area, and

"(iii) the alien seeks to enter the United States—

"(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

"(II) for a comparable position with a university or institution of higher education to conduct research in the area, or

"(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

"(C) CERTAIN MULTINATIONAL EXECUTIVES AND MANAGERS.—An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

"(2) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING ADVANCED DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—

"(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 40,000, plus any visas not required for the classes specified in paragraph (1), to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

"(B) WAIVER OF JOB OFFER.—The Attorney General may, when he deems it to be in the national interest, waive the requirement of subparagraph (A) that an alien's services in the sciences, arts, or business be sought by an employer in the United States.

"(C) DETERMINATION OF EXCEPTIONAL ABILITY.—In determining under subparagraph (A) whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning or a license to prac-

tice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(3) SKILLED WORKERS, PROFESSIONALS, AND OTHER WORKERS.—

"(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 40,000, plus any visas not required for the classes specified in paragraphs (1) and (2), to the following classes of aliens who are not described in paragraph (2):

"(i) SKILLED WORKERS.—Qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (requiring at least 2 years training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(ii) PROFESSIONALS.—Qualified immigrants who hold baccalaureate degrees and who are members of the professions.

"(iii) OTHER WORKERS.—Other qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(B) LIMITATION ON OTHER WORKERS.—Not more than 10,000 of the visas made available under this paragraph in any fiscal year may be available for qualified immigrants described in subparagraph (A)(iii).

"(C) LABOR CERTIFICATION REQUIRED.—An immigrant visa may not be issued to an immigrant under subparagraph (A) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(5)(A).

"(4) CERTAIN SPECIAL IMMIGRANTS.—Visas shall be made available, in a number not to exceed 10,000, to qualified special immigrants described in section 101(a)(27) (other than those described in subparagraph (A) or (B) thereof), of which not more than 5,000 may be made available in any fiscal year to special immigrants described in subclause (II) or (III) of section 101(a)(27)(C)(ii).

"(5) EMPLOYMENT CREATION.—

"(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 10,000, to qualified immigrants seeking to enter the United States for the purpose of engaging in a new commercial enterprise—

"(i) which the alien has established,

"(ii) in which such alien has invested (after the date of the enactment of the Immigration Act of 1990) or, is actively in the process of investing, capital in an amount not less than the amount specified in subparagraph (C), and

"(iii) which will benefit the United States economy and create full-time employment for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the immigrant and the immigrant's spouse, sons, or daughters).

"(B) SET-ASIDE FOR TARGETTED EMPLOYMENT AREAS.—

"(i) IN GENERAL.—Not less than 3,000 of the visas made available under this paragraph in each fiscal year shall be reserved for qualified immigrants who establish a new commercial enterprise described in subparagraph (A) which will create employment in a targetted employment area.

"(ii) TARGETTED EMPLOYMENT AREA DEFINED.—In this paragraph, the term 'targetted employment area' means, at the time of the investment, a rural area or an area which has experienced high unemployment (of at least 150 percent of the national average rate).

"(iii) RURAL AREA DEFINED.—In this paragraph, the term 'rural area' means any area other than an area within a metropolitan statistical area or within the outer boundary of any city or town having a population of 20,000 or more (based on the most recent decennial census of the United States).

"(C) AMOUNT OF CAPITAL REQUIRED.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the amount of capital required under subparagraph (A) shall be $1,000,000. The Attorney General, in consultation with the Secretary of Labor and the Secretary of State, may from time to time prescribe regulations increasing the dollar amount specified under the previous sentence.

"(ii) ADJUSTMENT FOR TARGETTED EMPLOYMENT AREAS.—The Attorney General may, in the case of investment made in a targetted employment area, specify an amount of capital required under subparagraph (A) that is less than (but not less than ½ of) the amount specified in clause (i).

"(iii) ADJUSTMENT FOR HIGH EMPLOYMENT AREAS.—In the case of an investment made in a part of a metropolitan statistical area that at the time of the investment—

"(I) is not a targetted employment area, and

"(II) is an area with an unemployment rate significantly below the national average unemployment rate,

the Attorney General may specify an amount of capital required under subparagraph (A) that is greater than (but not greater than 3 times) the amount specified in clause (i).".

(b) DETERRING IMMIGRATION-RELATED ENTREPRENEURSHIP FRAUD.—

(1) CONDITIONAL BASIS FOR PERMANENT RESIDENT STATUS BASED ON ESTABLISHMENT OF COMMERCIAL ENTERPRISES.—Chapter 2 of title II is amended by inserting after section 216 the following new section:

"CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, AND CHILDREN

8 USC 1186b.

"SEC. 216A. (a) IN GENERAL.—

"(1) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of this Act, an alien entrepreneur (as defined in

subsection (f)(1)), alien spouse, and alien child (as defined in subsection (f)(2)) shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence, to have obtained such status on a conditional basis subject to the provisions of this section.

"(2) NOTICE OF REQUIREMENTS.—

"(A) AT TIME OF OBTAINING PERMANENT RESIDENCE.—At the time an alien entrepreneur, alien spouse, or alien child obtains permanent resident status on a conditional basis under paragraph (1), the Attorney General shall provide for notice to such an entrepreneur, spouse, or child respecting the provisions of this section and the requirements of subsection (c)(1) to have the conditional basis of such status removed.

"(B) AT TIME OF REQUIRED PETITION.—In addition, the Attorney General shall attempt to provide notice to such an entrepreneur, spouse, or child, at or about the beginning of the 90-day period described in subsection (d)(2)(A), of the requirements of subsection (c)(1).

"(C) EFFECT OF FAILURE TO PROVIDE NOTICE.—The failure of the Attorney General to provide a notice under this paragraph shall not affect the enforcement of the provisions of this section with respect to such an entrepreneur, spouse, or child.

"(b) TERMINATION OF STATUS IF FINDING THAT QUALIFYING ENTREPRENEURSHIP IMPROPER.—

"(1) IN GENERAL.—In the case of an alien entrepreneur with permanent resident status on a conditional basis under subsection (a), if the Attorney General determines, before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence, that—

"(A) the establishment of the commercial enterprise was intended solely as a means of evading the immigration laws of the United States,

"(B)(i) a commercial enterprise was not established by the alien,

"(ii) the alien did not invest or was not actively in the process of investing the requisite capital; or

"(iii) the alien was not sustaining the actions described in clause (i) or (ii) throughout the period of the alien's residence in the United States, or

"(C) the alien was otherwise not conforming to the requirements of section 203(b)(5),

then the Attorney General shall so notify the alien involved and, subject to paragraph (2), shall terminate the permanent resident status of the alien (and the alien spouse and alien child) involved as of the date of the determination.

"(2) HEARING IN DEPORTATION PROCEEDING.—Any alien whose permanent resident status is terminated under paragraph (1) may request a review of such determination in a proceeding to deport the alien. In such proceeding, the burden of proof shall be on the Attorney General to establish, by a preponderance of the evidence, that a condition described in paragraph (1) is met.

"(c) REQUIREMENTS OF TIMELY PETITION AND INTERVIEW FOR REMOVAL OF CONDITION.—

"(1) IN GENERAL.—In order for the conditional basis established under subsection (a) for an alien entrepreneur, alien spouse, or alien child to be removed—

"(A) the alien entrepreneur must submit to the Attorney General, during the period described in subsection (d)(2), a petition which requests the removal of such conditional basis and which states, under penalty of perjury, the facts and information described in subsection (d)(1), and

"(B) in accordance with subsection (d)(3), the alien entrepreneur must appear for a personal interview before an officer or employee of the Service respecting the facts and information described in subsection (d)(1).

"(2) TERMINATION OF PERMANENT RESIDENT STATUS FOR FAILURE TO FILE PETITION OR HAVE PERSONAL INTERVIEW.—

"(A) IN GENERAL.—In the case of an alien with permanent resident status on a conditional basis under subsection (a), if—

"(i) no petition is filed with respect to the alien in accordance with the provisions of paragraph (1)(A), or

"(ii) unless there is good cause shown, the alien entrepreneur fails to appear at the interview described in paragraph (1)(B) (if required under subsection (d)(3)),

the Attorney General shall terminate the permanent resident status of the alien as of the second anniversary of the alien's lawful admission for permanent residence.

"(B) HEARING IN DEPORTATION PROCEEDING.—In any deportation proceeding with respect to an alien whose permanent resident status is terminated under subparagraph (A), the burden of proof shall be on the alien to establish compliance with the conditions of paragraphs (1)(A) and (1)(B).

"(3) DETERMINATION AFTER PETITION AND INTERVIEW.—

"(A) IN GENERAL.—If—

"(i) a petition is filed in accordance with the provisions of paragraph (1)(A), and

"(ii) the alien entrepreneur appears at any interview described in paragraph (1)(B),

the Attorney General shall make a determination, within 90 days of the date of the such filing or interview (whichever is later), as to whether the facts and information described in subsection (d)(1) and alleged in the petition are true with respect to the qualifying commercial enterprise.

"(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Attorney General determines that such facts and information are true, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status effective as of the second anniversary of the alien's obtaining the status of lawful admission for permanent residence.

"(C) TERMINATION IF ADVERSE DETERMINATION.—If the Attorney General determines that such facts and information are not true, the Attorney General shall so notify the alien involved and, subject to subparagraph (D), shall terminate the permanent resident status of an alien entrepreneur, alien spouse, or alien child as of the date of the determination.

"(D) HEARING IN DEPORTATION PROCEEDING.—Any alien whose permanent resident status is terminated under subparagraph (C) may request a review of such determination in a proceeding to deport the alien. In such proceeding, the burden of proof shall be on the Attorney General to establish, by a preponderance of the evidence, that the facts and information described in subsection (d)(1) and alleged in the petition are not true with respect to the qualifying commercial enterprise.

"(d) DETAILS OF PETITION AND INTERVIEW.—

"(1) CONTENTS OF PETITION.—Each petition under subsection (c)(1)(A) shall contain facts and information demonstrating that—

"(A) a commercial enterprise was established by the alien;

"(B) the alien invested or was actively in the process of investing the requisite capital; and

"(C) the alien sustained the actions described in subparagraphs (A) and (B) throughout the period of the alien's residence in the United States.

"(2) PERIOD FOR FILING PETITION.—

"(A) 90-DAY PERIOD BEFORE SECOND ANNIVERSARY.—Except as provided in subparagraph (B), the petition under subsection (c)(1)(A) must be filed during the 90-day period before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence.

"(B) DATE PETITIONS FOR GOOD CAUSE.—Such a petition may be considered if filed after such date, but only if the alien establishes to the satisfaction of the Attorney General good cause and extenuating circumstances for failure to file the petition during the period described in subparagraph (A).

"(C) FILING OF PETITIONS DURING DEPORTATION.—In the case of an alien who is the subject of deportation hearings as a result of failure to file a petition on a timely basis in accordance with subparagraph (A), the Attorney General may stay such deportation proceedings against an alien pending the filing of the petition under subparagraph (B).

"(3) PERSONAL INTERVIEW.—The interview under subsection (c)(1)(B) shall be conducted within 90 days after the date of submitting a petition under subsection (c)(1)(A) and at a local office of the Service, designated by the Attorney General, which is convenient to the parties involved. The Attorney General, in the Attorney General's discretion, may waive the deadline for such an interview or the requirement for such an interview in such cases as may be appropriate.

"(e) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.—For purposes of title III, in the case of an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence.

"(f) DEFINITIONS.—In this section:

"(1) The term 'alien entrepreneur' means an alien who obtains the status of an alien lawfully admitted for permanent

residence (whether on a conditional basis or otherwise) unde section 203(b)(5).

"(2) The term 'alien spouse' and the term 'alien child' mea an alien who obtains the status of an alien lawfully admitted fo permanent residence (whether on a conditional basis or othe wise) by virtue of being the spouse or child, respectively, of a alien entrepreneur.".

(2) ADDITIONAL GROUND FOR DEPORTATION.—For additiona ground of exclusion for termination of permanent residence o a conditional basis under section 216A of the Immigration an Nationality Act, see section 241(a)(1)(D) of such Act, as amende by section 602(a) of this Act.

(3) CRIMINAL PENALTY FOR IMMIGRATION-RELATE ENTREPRENEURSHIP FRAUD.—Section 275 (8 U.S.C. 1325) amended by adding at the end the following new subsectio

"(c) Any individual who knowingly establishes a commerci enterprise for the purpose of evading any provision of the immigr tion laws shall be imprisoned for not more than 5 years, fined i accordance with title 18, United States Code, or both.".

(4) LIMITATION ON ADJUSTMENT OF STATUS.—Section 245 U.S.C. 1255) is amended by adding at the end the following ne subsection:

"(f) The Attorney General may not adjust, under subsection (a the status of an alien lawfully admitted to the United States fo permanent residence on a conditional basis under section 216A.

(5) CONFORMING AMENDMENT.—The table of contents amended by inserting after the item relating to section 216 th following new item:

"Sec. 216A. Conditional permanent resident status for certain alien entrepreneu spouses, and children.".

8 USC 1182 note.

**SEC. 122. CHANGES IN LABOR CERTIFICATION PROCESS.**

(a) LABOR MARKET INFORMATION PILOT PROGRAM FOR EMPLO MENT-BASED IMMIGRANTS.—(1) The Secretary of Labor shall esta lish a pilot program which provides for a determination, in accor ance with section 553 of title 5, United States Code, of labor sho ages or surpluses in up to 10 defined occupational classifications the United States. In making such determinations, the Secreta shall consider certifications approved under section 212(a)(5)(A) the Immigration and Nationality Act and labor market and oth information.

(2)(A) If under the pilot program there is a determination th there is a labor shortage with respect to an occupational classific tion, a certification under section 212(a)(5)(A) of the Immigrati and Nationality Act for petitions for that occupational classificati shall be deemed to have been issued.

(B) If under the pilot program there is a determination that the is a labor surplus with respect to an occupational classification, t Secretary of Labor may nonetheless make a certification und section 212(a)(5)(A) of the Immigration and Nationality Act wi regard to a specific job opportunity in the occupational classificati if the employer submits evidence, based on extensive recruitme efforts (including such efforts as the Secretary may require), de onstrating that the employer meets all the requirements for certi cation under such section.

(3) The pilot program under this subsection shall only be effective r applications for certifications filed during the 3-fiscal-year period eginning with fiscal year 1992.

(4) By not later than April 1, 1994, the Secretary of Labor shall eport to the Committees on Education and Labor and Judiciary of ie House of Representatives and the Committees on Labor and uman Resources and the Judiciary of the Senate on the operation the pilot program under this subsection and whether the program ould be extended and the number of defined occupational classi- cations permitted under the program if it is extended. Reports.

(b) NOTICE IN LABOR CERTIFICATIONS.—The Secretary of Labor all provide, in the labor certification process under section 2(a)(5)(A) of the Immigration and Nationality Act, that—

(1) no certification may be made unless the applicant for certification has, at the time of filing the application, provided notice of the filing (A) to the bargaining representative (if any) of the employer's employees in the occupational classification and area for which aliens are sought, or (B) if there is no such bargaining representative, to employees employed at the facility through posting in conspicuous locations; and

(2) any person may submit documentary evidence bearing on the application for certification (such as information on available workers, information on wages and working conditions, and information on the employer's failure to meet terms and conditions with respect to the employment of alien workers and co-workers).

C. 123. DEFINITIONS OF MANAGERIAL CAPACITY AND EXECUTIVE CAPACITY.

Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end e following:

"(44)(A) The term 'managerial capacity' means an assignment thin an organization in which the employee primarily—

"(i) manages the organization, or a department, subdivision, function, or component of the organization;

"(ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;

"(iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization) or, if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and

"(iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority. first-line supervisor is not considered to be acting in a managerial pacity merely by virtue of the supervisor's supervisory duties nless the employees supervised are professional.

"(B) The term 'executive capacity' means an assignment within an ganization in which the employee primarily—

"(i) directs the management of the organization or a major component or function of the organization;

"(ii) establishes the goals and policies of the organization, component, or function;

"(iii) exercises wide latitude in discretionary decision-makin and

"(iv) receives only general supervision or direction fro higher level executives, the board of directors, or stockholders the organization.

"(C) If staffing levels are used as a factor in determining wheth an individual is acting in a managerial or executive capacity, t Attorney General shall take into account the reasonable needs the organization, component, or function in light of the overa purpose and stage of development of the organization, component, function. An individual shall not be considered to be acting in managerial or executive capacity (as previously defined) merely the basis of the number of employees that the individual supervis or has supervised or directs or has directed.".

8 USC 1153 note.

**SEC. 124. TRANSITION FOR EMPLOYEES OF CERTAIN UNITED STATE BUSINESSES OPERATING IN HONG KONG.**

(a) ADDITIONAL VISA NUMBERS.—

(1) TREATMENT OF PRINCIPALS.—In the case of any alien d scribed in paragraph (3) with respect to whom a classificati petition has been filed and approved under subsection (b), the shall be made available, in addition to the immigrant vis otherwise available in each of fiscal years 1991 through 19 and without regard to section 202(a) of the Immigration a Nationality Act, up to 12,000 additional immigrant visas.

(2) DERIVATIVE RELATIVES.—A spouse or child (as defined section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration a Nationality Act) shall, if not otherwise entitled to an immigra status and the immediate issuance of a visa under this sectio be entitled to the same status, and the same order of conside ation, provided under this section, if accompanying, or followi to join, the alien's spouse or parent.

(3) EMPLOYEES OF CERTAIN UNITED STATES BUSINESSES OPERA ING IN HONG KONG.—An alien is described in this paragraph the alien—

(A) is a resident of Hong Kong and is employed in Ho Kong (and has been so employed during the 12 previou consecutive months) as an officer or supervisor or in capacity that is managerial, executive, or involves speci ized knowledge, by a business entity which (i) is owned a organized in the United States (or is the subsidiary affiliate of a business owned and organized in the Unit States), (ii) employs at least 100 employees in the Unit States and at least 50 employees outside the United State and (iii) has a gross annual income of at least $50,000,00 and

(B) has an offer of employment from such business enti in the United States as an officer or supervisor or in capacity that is managerial, executive, or involves speci ized knowledge, which offer (i) is effective from the time filing the petition for classification under this secti through and including the time of entry into the Unit States and (ii) provides for salary and benefits comparab to the salary and benefits provided to others with simil responsibilities and experience within the same compan

(b) PETITIONS.—Any employer desiring and intending to empl within the United States an alien described in subsection (a)(3) m

e a petition with the Attorney General for such classification. No a may be issued under subsection (a)(1) until such a petition has en approved.

c) ALLOCATION.—Visa numbers made available under subsection shall be made available in the order which petitions under section (b) are filed with the Attorney General.

d) DEFINITIONS.—In this section:

(1) EXECUTIVE CAPACITY.—The term "executive capacity" has the meaning given such term in section 101(a)(44)(B) of the Immigration and Nationality Act, as added by section 123 of this Act.

(2) MANAGERIAL CAPACITY.—The term "managerial capacity" has the meaning given such term in section 101(a)(44)(A) of the Immigration and Nationality Act, as added by section 123 of this Act.

(3) OFFICER.—The term "officer" means, with respect to a business entity, the chairman or vice-chairman of the board of directors of the entity, the chairman or vice-chairman of the executive committee of the board of directors, the president, any vice-president, any assistant vice-president, any senior trust officer, the secretary, any assistant secretary, the treasurer, any assistant treasurer, any trust officer or associate trust officer, the controller, any assistant controller, or any other officer of the entity customarily performing functions similar to those performed by any of the above officers.

(4) SPECIALIZED KNOWLEDGE.—The term "specialized knowledge" has the meaning given such term in section 214(c)(2)(B) of the Immigration and Nationality Act, as amended by section 206(b)(2) of this Act.

(5) SUPERVISOR.—The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely of a routine or clerical nature, but requires the use of independent judgment.

## PART 3—DIVERSITY IMMIGRANTS

. 131. DIVERSITY IMMIGRANTS.

ection 203, as amended by sections 111 and 121 of this Act, is ther amended by inserting after subsection (b) the following new section:

(c) DIVERSITY IMMIGRANTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), aliens subject to the worldwide level specified in section 201(e) for diversity immigrants shall be allotted visas each fiscal year as follows:

"(A) DETERMINATION OF PREFERENCE IMMIGRATION.—The Attorney General shall determine for the most recent previous 5-fiscal-year period for which data are available, the total number of aliens who are natives of each foreign state and who (i) were admitted or otherwise provided lawful permanent resident status (other than under this subsection) and (ii) were subject to the numerical limitations of

section 201(a) (other than paragraph (3) thereof) or wh
were admitted or otherwise provided lawful permanen
resident status as an immediate relative or other alie
described in section 201(b)(2).

"(B) IDENTIFICATION OF HIGH-ADMISSION AND LOW-ADMI
SION REGIONS AND HIGH-ADMISSION AND LOW-ADMISSIO
STATES.—The Attorney General—

"(i) shall identify—

"(I) each region (each in this paragraph referre
to as a 'high-admission region') for which the tot
of the numbers determined under subparagrap
(A) for states in the region is greater than ⅙ of th
total of all such numbers, and

"(II) each other region (each in this paragrap
referred to as a 'low-admission region'); and

"(ii) shall identify—

"(I) each foreign state for which the numb
determined under subparagraph (A) is greate
than 50,000 (each such state in this paragrap
referred to as a 'high-admission state'), and

"(II) each other foreign state (each such state i
this paragraph referred to as a 'low-admissio
state').

"(C) DETERMINATION OF PERCENTAGE OF WORLDWI
IMMIGRATION ATTRIBUTABLE TO HIGH-ADMISSION REGIONS.-
The Attorney General shall determine the percentage
the total of the numbers determined under subparagrap
(A) that are numbers for foreign states in high-admissio
regions.

"(D) DETERMINATION OF REGIONAL POPULATIONS EXCLU
ING HIGH-ADMISSION STATES AND RATIOS OF POPULATIONS O
REGIONS WITHIN LOW-ADMISSION REGIONS AND HIGH-ADMI
SION REGIONS.—The Attorney General shall determine-

"(i) based on available estimates for each region, th
total population of each region not including the popu
lation of any high-admission state;

"(ii) for each low-admission region, the ratio of th
population of the region determined under clause (i)
the total of the populations determined under suc
clause for all the low-admission regions; and

"(iii) for each high-admission region, the ratio of th
population of the region determined under clause (i)
the total of the populations determined under suc
clause for all the high-admission regions.

"(E) DISTRIBUTION OF VISAS.—

"(i) NO VISAS FOR NATIVES OF HIGH-ADMISSIO
STATES.—The percentage of visas made available und
this paragraph to natives of a high-admission state is

"(ii) FOR LOW-ADMISSION STATES IN LOW-ADMISSION R
GIONS.—Subject to clauses (iv) and (v), the percentage
visas made available under this paragraph to nativ
(other than natives of a high-admission state) in a lo
admission region is the product of—

"(I) the percentage determined under subpar
graph (C), and

"(II) the population ratio for that region dete
mined under subparagraph (D)(ii).

"(iii) FOR LOW-ADMISSION STATES IN HIGH-ADMISSION REGIONS.—Subject to clauses (iv) and (v), the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a high-admission region is the product of—

"(I) 100 percent minus the percentage determined under subparagraph (C), and

"(II) the population ratio for that region determined under subparagraph (D)(iii).

"(iv) REDISTRIBUTION OF UNUSED VISA NUMBERS.—If the Secretary of State estimates that the number of immigrant visas to be issued to natives in any region for a fiscal year under this paragraph is less than the number of immigrant visas made available to such natives under this paragraph for the fiscal year, subject to clause (v), the excess visa numbers shall be made available to natives (other than natives of a high-admission state) of the other regions in proportion to the percentages otherwise specified in clauses (ii) and (iii).

"(v) LIMITATION ON VISAS FOR NATIVES OF A SINGLE FOREIGN STATE.—The percentage of visas made available under this paragraph to natives of any single foreign state for any fiscal year shall not exceed 7 percent.

"(F) REGION DEFINED.—Only for purposes of administering the diversity program under this subsection, Northern Ireland shall be treated as a separate foreign state, each colony or other component or dependent area of a foreign state overseas from the foreign state shall be treated as part of the foreign state, and the areas described in each of the following clauses shall be considered to be a separate region:

"(i) Africa.

"(ii) Asia.

"(iii) Europe.

"(iv) North America (other than Mexico).

"(v) Oceania.

"(vi) South America, Mexico, Central America, and the Caribbean.

"(2) REQUIREMENT OF EDUCATION OR WORK EXPERIENCE.—An alien is not eligible for a visa under this subsection unless the alien—

"(A) has at least a high school education or its equivalent, or

"(B) has, within 5 years of the date of application for a visa under this subsection, at least 2 years of work experience in an occupation which requires at least 2 years of training or experience.

"(3) MAINTENANCE OF INFORMATION.—The Secretary of State shall maintain information on the age, occupation, education level, and other relevant characteristics of immigrants issued visas under this subsection.".

8 USC 1153 note.

**SEC. 132. DIVERSITY TRANSITION FOR ALIENS WHO ARE NATIVES O CERTAIN ADVERSELY AFFECTED FOREIGN STATES.**

(a) IN GENERAL.—Notwithstanding the numerical limitations i sections 201 and 202 of the Immigration and Nationality Act, ther shall be made available to qualified immigrants described in subsec tion (b) 40,000 immigrant visas in each of fiscal years 1992, 1993, an 1994.

(b) QUALIFIED ALIEN DESCRIBED.—An alien described in thi subsection is an alien who—

(1) is a native of a foreign state that is not contiguous to th United States and that was identified as an adversely affecte foreign state for purposes of section 314 of the Immigratio Reform and Control Act of 1986,

(2) has a firm commitment for employment in the Unite States for a period of at least 1 year (beginning on the date admission under this section), and

(3) except as provided in subsection (c), is admissible as a immigrant.

(c) DISTRIBUTION OF VISA NUMBERS.—The Secretary of State sha provide for making immigrant visas provided under subsection (a available in the chronological order in which aliens apply for eac fiscal year, except that at least 40 percent of the number of suc visas in each fiscal year shall be made available to natives of th foreign state the natives of which received the greatest number visas issued under section 314 of the Immigration Reform an Control Act (or to aliens described in subsection (d) who are th spouses or children of such natives).

(d) DERIVATIVE STATUS FOR SPOUSES AND CHILDREN.—A spouse c child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of th Immigration and Nationality Act) shall, if not otherwise entitled t an immigrant status and the immediate issuance of a visa unde this section, be entitled to the same status, and the same order consideration, provided under this section, if accompanying, or fo lowing to join, his spouse or parent.

(e) WAIVERS OF GROUNDS OF EXCLUSION.—In determining th admissibility of an alien provided a visa number under this sectio the grounds of exclusion specified in paragraphs (5)(B) and (7)(A) section 212(a) of the Immigration and Nationality Act shall n apply, and the Attorney General shall waive the ground of exclusio specified in paragraph (6)(C) of such section, unless the Attorne General finds that such a waiver is not in the national interes

(f) APPLICATION FEE.—The Secretary of State shall require pa ment of a reasonable fee for the filing of an application under th section in order to cover the costs of processing applications unde this section.

8 USC 1153 note.

**SEC. 133. ONE-YEAR DIVERSITY TRANSITION FOR ALIENS WHO HAV BEEN NOTIFIED OF AVAILABILITY OF NP-5 VISAS.**

Notwithstanding the numerical limitations in sections 201 an 202 of the Immigration and Nationality Act, there shall be mad available in fiscal year 1991 immigrant visa numbers for qualifie immigrants who—

(1) were notified by the Secretary of State before May 1, 199 of their selection for issuance of a visa under section 314 of th Immigration Reform and Control Act of 1986, and

(2) are qualified for the issuance of such a visa but for numerical and fiscal year limitations on the issuance of suc

visas, (B) section 212(a)(19) or 212(e) of the Immigration and Nationality Act, or (C) the fact that the immigrant was a national, but not a native, of a foreign state described in section 314 of the Immigration Reform and Control Act of 1986.

as shall be made available under this section to spouses and ldren of qualified immigrants in the same manner as such visas re made available to such spouses and children under section 314 the Immigration Reform and Control Act of 1986. The Attorney neral may waive section 212(a)(19) of the Immigration and tionality Act (or, on or after June 1, 1991, section 212(a)(6)(C) of h Act) in the case of qualified immigrants described in the first tence of this section.

. 134. TRANSITION FOR DISPLACED TIBETANS. 8 USC 1153 note.

a) IN GENERAL.—Notwithstanding the numerical limitations in tions 201 and 202 of the Immigration and Nationality Act, there ll be made available to qualified displaced Tibetans described in section (b) 1,000 immigrant visas in the 3-fiscal-year period begin- g with fiscal year 1991.

b) QUALIFIED DISPLACED TIBETAN DESCRIBED.—An alien described his subsection is an alien who—

(1) is a native of Tibet, and

(2) since before date of the enactment of this Act, has been continuously residing in India or Nepal.

purposes of paragraph (1), an alien shall be considered to be a ive of Tibet if the alien was born in Tibet or is the son, daughter, ndson, or granddaughter of an individual born in Tibet.

c) DISTRIBUTION OF VISA NUMBERS.—The Secretary of State shall vide for making immigrant visas provided under subsection (a) ilable to displaced aliens described in subsection (b) (or described subsection (d) as the spouse or child of such an alien) in an itable manner, giving preference to those aliens who are not nly resettled in India or Nepal or who are most likely to be ettled successfully in the United States.

d) DERIVATIVE STATUS FOR SPOUSES AND CHILDREN.—A spouse or ld (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the migration and Nationality Act) shall, if not otherwise entitled to immigrant status and the immediate issuance of a visa under s section, be entitled to the same status, and the same order of sideration, provided under this section, if accompanying, or fol- ing to join, his spouse or parent.

## Subtitle C—Commission and Information

. 141. COMMISSION ON LEGAL IMMIGRATION REFORM. 8 USC 1153 note.

a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—(1) Effec- October 1, 1991, there is established a Commission on Legal migration Reform (in this section referred to as the "Commis- n") which shall be composed of 9 members to be appointed as ows:

(A) One member who shall serve as Chairman, to be ap- President. pointed by the President.

(B) Two members to be appointed by the Speaker of the House of Representatives who shall select such members from a list of nominees provided by the Chairman of the Subcommittee on

Immigration, Refugees, and International Law of the Co
mittee on the Judiciary of the House of Representatives.

(C) Two members to be appointed by the Minority Leader
the House of Representatives who shall select such memb
from a list of nominees provided by the ranking minor
member of the Subcommittee on Immigration, Refugees, a
International Law of the Committee on the Judiciary of
House of Representatives.

(D) Two members to be appointed by the Majority Leader
the Senate who shall select such members from a list of no
nees provided by the Chairman of the Subcommittee
Immigration and Refugee Affairs of the Committee on
Judiciary of the Senate.

(E) Two members to be appointed by the Minority Leader
the Senate who shall select such members from a list of no
nees provided by the ranking minority member of
Subcommittee on Immigration and Refugee Affairs of
Committee on the Judiciary of the Senate.

(2) Initial appointments to the Commission shall be made dur
the 45-day period beginning on October 1, 1991. A vacancy in
Commission shall be filled in the same manner in which the origi
appointment was made.

President. (3) Members shall be appointed to serve for the life of the Comm
sion, except that the term of the member described in paragra
(1)(A) shall expire at noon on January 20, 1993, and the Presid
shall appoint an individual to serve for the remaining life of
Commission.

(b) FUNCTIONS OF COMMISSION.—The Commission shall—

(1) review and evaluate the impact of this Act and the ame
ments made by this Act, in accordance with subsection (c); a

Reports. (2) transmit to the Congress—

(A) not later than September 30, 1994, a first rep
describing the progress made in carrying out paragraph
and

(B) not later than September 30, 1997, a final rep
setting forth the Commission's findings and recommen
tions, including such recommendations for additio
changes that should be made with respect to legal im
gration into the United States as the Commission dee
appropriate.

(c) CONSIDERATIONS.—

(1) PARTICULAR CONSIDERATIONS.—In particular, the Comm
sion shall consider the following:

(A) The requirements of citizens of the United States a
of aliens lawfully admitted for permanent residence to
joined in the United States by immediate family memb
and the impact which the establishment of a national le
of immigration has upon the availability and priority
family preference visas.

(B) The impact of immigration and the implementatio
the employment-based and diversity programs on la
needs, employment, and other economic and dome
conditions in the United States.

(C) The social, demographic, and natural resour
impact of immigration.

(D) The impact of immigration on the foreign policy a
national security interests of the United States.

(E) The impact of per country immigration levels on family-sponsored immigration.

(F) The impact of the numerical limitation on the adjustment of status of aliens granted asylum.

(G) The impact of the numerical limitations on the admission of nonimmigrants under section 214(g) of the Immigration and Nationality Act.

(2) DIVERSITY PROGRAM.—The Commission shall analyze the information maintained under section 203(c)(3) of the Immigration and Nationality Act and shall report to Congress in its report under subsection (b)(2) on—

(A) the characteristics of individuals admitted under section 203(c) of the Immigration and Nationality Act, and

(B) how such characteristics compare to the characteristics of family-sponsored immigrants and employment-based immigrants.

The Commission shall include in the report an assessment of the effect of the requirement of paragraph (2) of section 203(c) of the Immigration and Nationality Act on the diversity, educational, and skill level of aliens admitted.

d) COMPENSATION OF MEMBERS.—(1) Each member of the Commis-
n who is not an officer or employee of the Federal Government is
itled to receive, subject to such amounts as are provided in
rance in appropriations Acts, pay at the daily equivalent of the
imum annual rate of basic pay in effect for grade GS-18 of the
neral Schedule. Each member of the Commission who is such an
cer or employee shall serve without additional pay.

2) While away from their homes or regular places of business in
performance of services for the Commission, members of the
mmission shall be allowed travel expenses, including per diem in
of subsistence.

e) MEETINGS, STAFF, AND AUTHORITY OF COMMISSION.—The provi-
ns of subsections (e) through (g) of section 304 of the Immigration
orm and Control Act of 1986 shall apply to the Commission in
same manner as they apply to the Commission established
er such section, except that paragraph (2) of subsection (e)
reof shall not apply.

) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized
e appropriated to the Commission such sums as may be nec-
ary to carry out this section.

2) Notwithstanding any other provision of this section, the
hority to make payments, or to enter into contracts, under this
ion shall be effective only to such extent, or in such amounts, as
provided in advance in appropriations Acts.

) TERMINATION DATE.—The Commission shall terminate on the
e on which a final report is required to be transmitted under
section (b)(2)(B), except that the Commission may continue to
ction until January 1, 1998, for the purpose of concluding its
vities, including providing testimony to standing committees of
gress concerning its final report under this section and dissemi-
ing that report.

) CONGRESSIONAL RESPONSE.—(1) No later than 90 days after the
e of receipt of each report transmitted under subsection (b)(2), the
mmittees on the Judiciary of the House of Representatives and of
Senate shall initiate hearings to consider the findings and
mmendations of the report.

(2) No later than 180 days after the date of receipt of such report, each such Committee shall report to its respective House oversight findings and any legislation it deems appropriate.

SEC. 142. STATISTICAL INFORMATION SYSTEM.

Section 103 (8 U.S.C. 1103) is amended by adding at the end t following new subsections:

"(c)(1) The Commissioner, in consultation with interested acaden cians, government agencies, and other parties, shall provide for system for collection and dissemination, to Congress and the publ of information (not in individually identifiable form) useful evaluating the social, economic, environmental, and demograph impact of immigration laws.

"(2) Such information shall include information on the ali population in the United States, on the rates of naturalization a emigration of resident aliens, on aliens who have been admitte paroled, or granted asylum, on nonimmigrants in the United Stat (by occupation, basis for admission, and duration of stay), on alie who have been excluded or deported from the United States, on t number of applications filed and granted for suspension of depor tion, and on the number of aliens estimated to be present unlawful in the United States in each fiscal year.

"(3) Such system shall provide for the collection and disseminati of such information not less often than annually.

Reports. "(d)(1) The Commissioner shall submit to Congress annually report which contains a summary of the information collected und subsection (c) and an analysis of trends in immigration and nat ralization.

"(2) Each annual report shall include information on the numb and rate of denial administratively, of applications for naturali tion, for each district office of the Service and by national orig group.".

## Subtitle D—Miscellaneous

SEC. 151. REVISION OF SPECIAL IMMIGRANT PROVISIONS RELATING RELIGIOUS WORKERS (C SPECIAL IMMIGRANTS).

(a) IN GENERAL.—Subparagraph (C) of section 101(a)(27) (8 U.S 1101(a)(27)) is amended to read as follows:

"(C) an immigrant, and the immigrant's spouse and childr if accompanying or following to join the immigrant, who

"(i) for at least 2 years immediately preceding the time application for admission, has been a member of a religio denomination having a bona fide nonprofit, religio organization in the United States;

"(ii) seeks to enter the United States—

"(I) solely for the purpose of carrying on the vocati of a minister of that religious denomination,

"(II) before October 1, 1994, in order to work for t organization at the request of the organization in professional capacity in a religious vocation or occu tion, or

"(III) before October 1, 1994, in order to work for t organization (or for a bona fide organization which affiliated with the religious denomination and exempt from taxation as an organization described

section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and

"(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i);".

b) REFERENCE TO NEW NONIMMIGRANT CLASSIFICATION.—For ablishment of nonimmigrant classification for religious workers, section 209.

. 152. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS EMPLOYED AT THE UNITED STATES MISSION IN HONG KONG (D SPECIAL IMMIGRANTS). 8 USC 1101 note.

a) IN GENERAL.—Subject to subsection (c), an alien described in section (b) shall be treated as a special immigrant described in tion 101(a)(27)(D) of the Immigration and Nationality Act.

b) ALIENS COVERED.—An alien is described in this subsection if—

(1) the alien is—

(A) an employee at the United States consulate in Hong Kong under the authority of the Chief of Mission (including employment pursuant to section 5913 of title 5, United States Code) who has performed faithful service for a total of three years or more, or

(B) a member of the immediate family (as defined in 6 Foreign Affairs Manual 117k as of the date of the enactment of this Act) of an employee described in subparagraph (A) who has been living with the employee in the same household;

(2) the welfare of the employee or such an immediate family member is subject to a clear threat due directly to the employee's employment with the United States Government or under a United States Government official; and

(3) the principal officer in Hong Kong, in the officer's discretion, has recommended the granting of special immigrant status to such alien in exceptional circumstances and the Secretary of State approves such recommendation and finds that it is in the national interest to grant such status.

c) EXPIRATION.—Subsection (a) shall only apply to aliens who file application for special immigrant status under this section by not r than January 1, 2002.

d) LIMITED WAIVER OF NUMERICAL LIMITATIONS.—The first 500 as made available to aliens as special immigrants under this tion shall not be counted against any numerical limitation estabed under section 201 or 202 of the Immigration and Nationality .

. 153. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS DECLARED DEPENDENT ON A JUVENILE COURT (J SPECIAL IMMIGRANTS).

a) IN GENERAL.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is ended—

(1) by striking "or" at the end of subparagraph (H),

(2) by striking the period at the end of subparagraph (I) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(J) an immigrant (i) who has been declared dependent on a juvenile court located in the United States and has been deemed eligible by that court for long-term foster care, and (ii) for whom

it has been determined in administrative or judicial proceedi that it would not be in the alien's best interest to be returned the alien's or parent's previous country of nationality or co try of last habitual residence; except that no natural parent prior adoptive parent of any alien provided special immigr status under this subparagraph shall thereafter, by virtue such parentage, be accorded any right, privilege, or status un this Act.".

(b) WAIVER OF GROUNDS FOR DEPORTATION.—

(1) IN GENERAL.—Section 241 (8 U.S.C. 1251) is amended adding at the end the following new subsection:

"(h) Paragraphs (1), (2), (5), (9), or (12) of subsection 241(a) (ot than so much of paragraph (1) as relates to a ground of exclus described in paragraph (9), (10), (23), (27), (29), or (33) of sect 212(a)) shall not apply to a special immigrant described in sect 101(a)(27)(J) based upon circumstances that exist before the date alien was provided such special immigrant status.".

Effective date.
8 USC 1251 note.

(2) USE OF NEW GROUNDS FOR DEPORTATION.—Effective on date that the amendments made by section 602 of this become effective, the subsection added by paragraph (1) amended to read as follows:

"(h) Paragraphs (1)(A), (1)(B), (1)(C), (1)(D), or (3)(A), of subsect 241(a) (other than so much of paragraph (1) as relates to a groun exclusion described in paragraph (2) or (3) of section 212(a)) shall apply to a special immigrant described in section 101(a)(27)(J) ba upon circumstances that exist before the date the alien was provi such special immigrant status.".

8 USC 1201 note.

SEC. 154. PERMITTING EXTENSION OF PERIOD OF VALIDITY OF MIGRANT VISAS FOR CERTAIN RESIDENTS OF HONG KO

(a) EXTENDING PERIOD OF VALIDITY.—

(1) IN GENERAL.—Subject to paragraph (2), the limitation the period of validity of an immigrant visa under section 22 of the Immigration and Nationality Act shall not apply in case of an immigrant visa issued, on or after the date of enactment of this Act and before September 1, 2001, to an al described in subsection (b), but only if—

(A) the alien elects, within the period of validity of immigrant visa under such section, to have this sect apply, and

(B) before the date the alien seeks to be admitted to United States for lawful permanent residence, the al notifies the appropriate consular officer of the alien's tention to seek such admission and provides such off with such information as the officer determines to be essary to verify that the alien remains eligible for ad sion to the United States as an immigrant.

(2) LIMITATION ON EXTENSION.—In no case shall the perio validity of a visa be extended under paragraph (1) bey January 1, 2002.

(3) TREATMENT UNDER NUMERICAL LIMITATIONS.—In apply the numerical limitations of sections 201 and 202 of Immigration and Nationality Act in the case of aliens for wh visas the period of validity is extended under this section, s limitations shall only apply at the time of original issuanc the visas and not at the time of admission of such ali

(b) ALIENS COVERED.—An alien is described in this subsection if e alien—

(1)(A) is chargeable under section 202 of the Immigration and Nationality Act to Hong Kong, and

(B)(i) is residing in Hong Kong as of the date of the enactment of this Act and is issued an immigrant visa under paragraph (1), (2), (4), or (5) of section 203(a) the Immigration and Nationality Act (as in effect on the date of the enactment of this Act) or under section 203(a) or 203(b)(1) of such Act (as in effect on and after October 1, 1991), or (ii) is the spouse or child (as defined in subsection (d)) of an alien described in clause (i), if accompanying or following to join the alien in coming to the United States; or

(2) is issued a visa under section 124 of this Act.

(c) TREATMENT OF CERTAIN EMPLOYEES IN HONG KONG.—

(1) IN GENERAL.—In applying the proviso of section 7 of the Central Intelligence Agency Act of 1949, in the case of an alien described in paragraph (2), the Director may charge the entry of the alien against the numerical limitation for any fiscal year (beginning with fiscal year 1991 and ending with fiscal year 1996) notwithstanding that the alien's entry is not made to the United States in that fiscal year so long as such entry is made before the end of fiscal year 1997.

(2) ALIENS COVERED.—An alien is described in this paragraph if the alien—

(A) is an employee of the Foreign Broadcast Information Service in Hong Kong, or

(B) is the spouse or child (as defined in subsection (d)) of an alien described in subparagraph (A), if accompanying or following to join the alien in coming to the United States.

(3) RELATION TO SIMILAR PROVISION.—The provisions of this subsection supersede section 403 of the Intelligence Authorization Act, Fiscal Year 1991.

(d) TREATMENT OF CHILDREN.—In this section, the term "child" as the meaning given such term in section 101(b)(1) of the Immigran and Nationality Act and also includes (for purposes of this ction and the Immigration and Nationality Act as it applies to this ction) an alien who was the child (as so defined) of the alien as of e date of the issuance of an immigrant visa to the alien described subsection (b)(1) or, in the case described in subsection (c), as of e date of charging of the entry of the alien under the proviso nder section 7 of the Central Intelligence Agency Act of 1949.

SEC. 155. EXPEDITED ISSUANCE OF LEBANESE SECOND AND FIFTH PREFERENCE VISAS. 8 USC 1153 note.

(a) IN GENERAL.—In the issuance of immigrant visas to certain ebanese immigrants described in subsection (b) in fiscal years 1991 nd 1992 and notwithstanding section 203(c) of the Immigration and ationality Act (to the extent inconsistent with this section), the ecretary of State shall provide that immigrant visas which would herwise be made available in the fiscal year shall be made availble as early as possible in the fiscal year.

(b) LEBANESE IMMIGRANTS COVERED.—Lebanese immigrants deribed in this subsection are aliens who—

(1) are natives of Lebanon,

(2) are not firmly resettled in any foreign country outside Lebanon, and

(3) as of the date of the enactment of this Act, are th beneficiaries of a petition approved to accord status und section 203(a)(2) or 203(a)(5) of the Immigration and Nationali Act (as in effect as of the date of the enactment of this Ac or the child of such an alien if accompanying or following to join th alien.

## Subtitle E—Effective Dates; Conforming Amendments

8 USC 1101 note.

**SEC. 161. EFFECTIVE DATES.**

(a) IN GENERAL.—Except as otherwise provided in this section, th amendments made by this title shall take effect on October 1, 199 and apply beginning with fiscal year 1992.

(b) PROVISIONS TAKING EFFECT UPON ENACTMENT.—The followi sections (and amendments made by such sections) shall take effe on the date of the enactment of this Act and (unless otherwi provided) apply to fiscal year 1991:

(1) Section 103 (relating to per country limitation for Ho Kong).

(2) Section 104 (relating to asylee adjustments).

(3) Section 124 (relating to transition for employees of certa U.S. businesses in Hong Kong).

(4) Section 133 (relating to one-year diversity transition f aliens who have been notified of availability of NP-5 visa

(5) Section 134 (relating to transition for displaced Tibetan

(6) Section 153 (relating to special immigrants who a dependent on a juvenile court).

(7) Section 154 (permitting extension of validity of visas f certain residents of Hong Kong).

(8) Section 155 (relating to expedited issuance of Leban second and fifth preference visas).

(9) Section 162(b) (relating to immigrant visa petitioning pr ess), but only insofar as such section relates to visas for fis years beginning with fiscal year 1992.

(c) GENERAL TRANSITIONS.—

(1) In the case of a petition filed under section 204(a) of t Immigration and Nationality Act before October 1, 1991, preference status under section 203(a)(3) or section 203(a)(6) such Act (as in effect before such date)—

(A) in order to maintain the priority date with respect such a petition, the petitioner must file (by not later th October 1, 1993) a new petition for classification of t employment under paragraph (1), (2), or (3) of section 203 of such Act (as amended by this title), and

(B) any labor certification under section 212(a)(5)(A) such Act required with respect to the new petition shall deemed approved if the labor certification with respect the previous petition was previously approved under sect 212(a)(14) of such Act.

(2) Any petition filed under section 204(a) of the Immigrat and Nationality Act before October 1, 1991, for prefere status under section 203(a)(4) or section 203(a)(5) of such Act in effect before such date) shall be deemed, as of such date, to a petition filed under such section for preference status un

section 203(a)(3) or section 203(a)(4), respectively, of such Act (as amended by this title).

(d) ADMISSIBILITY STANDARDS.—When an immigrant, in possession an unexpired immigrant visa issued before October 1, 1991, makes pplication for admission, the immigrant's admissibility under para- raph (7)(A) of section 212(a) of the Immigration and Nationality Act nall be determined under the provisions of law in effect on the date the issuance of such visa.

(e) CONSTRUCTION.—Nothing in this title shall be construed as ffecting the provisions of section 19 of Public Law 97-116, section c)(1) of Public Law 97-271, or section 202(e) of Public Law 99-603.

EC. 162. CONFORMING AMENDMENTS.

(a) RESTATEMENT OF DERIVATIVE STATUS, ORDER OF CONSIDERATION, TC.—(1) Section 203, as amended by subtitle B, is further amended 8 USC 1153.
y striking all that follows subsection (c) and inserting the following:

"(d) TREATMENT OF FAMILY MEMBERS.—A spouse or child as de- ned in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) nall, if not otherwise entitled to an immigrant status and the nmediate issuance of a visa under subsection (a), (b), or (c), be ntitled to the same status, and the same order of consideration rovided in the respective subsection, if accompanying or following join, the spouse or parent.

"(e) ORDER OF CONSIDERATION.—(1) Immigrant visas made avail- ble under subsection (a) or (b) shall be issued to eligible immigrants the order in which a petition in behalf of each such immigrant is led with the Attorney General (or in the case of special immigrants nder section 101(a)(27)(D), with the Secretary of State) as provided section 204(a).

"(2) Immigrant visa numbers made available under subsection (c) elating to diversity immigrants) shall be issued to eligible qualified nmigrants strictly in a random order established by the Secretary State for the fiscal year involved.

"(3) Waiting lists of applicants for visas under this section shall be Regulations.
aintained in accordance with regulations prescribed by the Sec- tary of State.

"(f) PRESUMPTION.—Every immigrant shall be presumed not to be scribed in subsection (a) or (b) of this section, section 101(a)(27), or ction 201(b)(2), until the immigrant establishes to the satisfaction the consular officer and the immigration officer that the im- igrant is so described. In the case of any alien claiming in his pplication for an immigrant visa to be described in section 201(b)(1) in subsection (a) or (b) of this section, the consular officer shall t grant such status until he has been authorized to do so as rovided by section 204.

"(g) LISTS.—For purposes of carrying out the Secretary's respon- bilities in the orderly administration of this section, the Secretary State may make reasonable estimates of the anticipated numbers visas to be issued during any quarter of any fiscal year within ch of the categories under subsections (a), (b), and (c) and to rely pon such estimates in authorizing the issuance of visas. The Sec- tary of State shall terminate the registration of any alien who ils to apply for an immigrant visa within one year following tification to the alien of the availability of such visa, but the cretary shall reinstate the registration of any such alien who tablishes within 2 years following the date of notification of the

availability of such visa that such failure to apply was due circumstances beyond the alien's control.".

8 USC 1153 note.

(2) Nothing in this Act may be construed as continuing t availability of visas under section 203(a)(7) of the Immigration a Nationality Act, as in effect before the date of enactment of this A

(b) CHANGES IN PETITIONING PROCEDURE.—Section 204 (8 U.S 1154) is amended—

(1) in subsection (a), by striking "(a)(1)" and all that follo through the end of paragraph (1) and inserting the followir

"(a)(1)(A) Any citizen of the United States claiming that an ali is entitled to classification by reason of a relationship described paragraph (1), (3), or (4) of section 203(a) or to an immediate relati status under section 201(b)(2)(A)(i) may file a petition with t Attorney General for such classification.

"(B) Any alien lawfully admitted for permanent residence clai ing that an alien is entitled to a classification by reason of t relationship described in section 203(a)(2) may file a petition wi the Attorney General for such classification.

"(C) Any alien desiring to be classified under section 203(b)(1)(A or any person on behalf of such an alien, may file a petition with t Attorney General for such classification.

"(D) Any employer desiring and intending to employ within t United States an alien entitled to classification under secti 203(b)(1)(B), 203(b)(1)(C), 203(b)(2), or 203(b)(3) may file a petition wi the Attorney General for such classification.

"(E)(i) Any alien (other than a special immigrant under secti 101(a)(27)(D)) desiring to be classified under section 203(b)(4), or a person on behalf of such an alien, may file a petition with t Attorney General for such classification.

"(ii) Aliens claiming status as a special immigrant under secti 101(a)(27)(D) may file a petition only with the Secretary of State a only after notification by the Secretary that such status has be recommended and approved pursuant to such section.

"(F) Any alien desiring to be classified under section 203(b)(5) ma file a petition with the Secretary of State for such classificatio

"(G)(i) Any alien desiring to be provided an immigrant visa und section 203(c) may file a petition at the place and time determin by the Secretary of State by regulation. Only one such petition ma be filed by an alien with respect to any petitioning period esta lished. If more than one petition is submitted all such petitio submitted for such period by the alien shall be voided.

"(ii)(I) The Secretary of State shall designate a period for the filir of petitions with respect to visas which may be issued under secti 203(c) for the fiscal year beginning after the end of the perio

"(II) Aliens who qualify, through random selection, for a vi under section 203(c) shall remain eligible to receive such visa on through the end of the specific fiscal year for which they we selected.

"(III) The Secretary of State shall prescribe such regulations may be necessary to carry out this clause.

"(iii) A petition or registration under this subparagraph shall b in such form as the Secretary of State may by regulation prescrib and shall contain such information and be supported by such doc mentary evidence as the Secretary of State may require.";

(2) in subsection (b)—

(A) by striking "section 203(a) (3) or (6)" and insertir "section 203(b)(2) or 203(b)(3)", and

(B) by striking "a preference status under section 203(a)" and inserting "preference under subsection (a) or (b) of section 203";

(3) in subsection (e), by striking "preference immigrant under section 203(a)" and inserting "immigrant under subsection (a), (b), or (c) of section 203";

(4) in subsection (g)(1), by striking "203(a)(4)" and inserting "203(a)(3)";

(5) by striking subsection (f); and

(6) by redesignating subsections (g) and (h) as (f) and (g), respectively.

(e) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 212(a)(5) (8 U.S.C. 1182(a)(5)), as amended by section 601(a) of this Act, is amended—

(A) in subparagraph (A), by striking "Any alien who seeks to enter the United States for the purpose of performing skilled or unskilled labor" and inserting "Any alien who seeks admission or status as an immigrant under paragraph (2) or (3) of section 203(b)",

(B) in subparagraph (B), by inserting "who seeks admission or status as an immigrant under paragraph (2) or (3) of section 203(b)" after "An alien" the first place it appears, and

(C) by striking subparagraph (C).

(2) Section 244(d) (8 U.S.C. 1254(d)) is amended by striking ", and unless" and all that follows through "then current".

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended—

(A) by striking "or nonpreference",

(B) by striking "202(e) or 203(a)" and inserting "201(a)", and

(C) by striking "for the fiscal year then current" and inserting "for the succeeding fiscal year".

(4) Section 3304(a)(14)(A) of the Internal Revenue Code of 1986 is amended by striking "section 203(a)(7) or". 26 USC 3304.

(5) Section 1614(a)(1)(B)(i) of the Social Security Act is amended by striking "section 203(a)(7) or". 42 USC 1382c.

(6) Section 2(c)(4) of the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 (Public Law 97-271) is amended by inserting before the period at the end the following: "(as in effect before October 1, 1991) or by reason of the relationship described in section 203(a)(2), 203(a)(3), or 203(a)(4), or 201(b)(2)(A)(i), respectively, of such Act (as in effect on or after such date)". 8 USC 1255 note.

(f) TECHNICAL CORRECTIONS TO IMMIGRATION NURSING RELIEF ACT OF 1989.—

(1) Section 2(b) of the Immigration Nursing Relief Act of 1989 (Public Law 101-238) is amended— 8 USC 1255 note.

(A) by striking "December 31, 1989" and inserting "September 1, 1989",

(B) by striking "in the lawful status" and inserting "in the status",

(C) by inserting "unauthorized employment performed before the date of the enactment of the Immigration Act of 1990 shall not be taken into account in applying section 245(c)(2) of the Immigration and Nationality Act and" after "spouse or child of such an alien,", and

(D) by striking "lawful status as such a nonimmigrant and all that follows through "subsection (a)" and insertin "lawful status throughout his or her stay in the Unite States as a nonimmigrant until the end of the 120-da period beginning on the date the Attorney General promu gates regulations carrying out the amendments made b section 162(f)(1) of the Immigration Act of 1990".

(2)(A) Section 101(a)(15)(H)(i)(a) (8 U.S.C. 1101(a)(15)(H)(i)(a)) i amended by striking "for the facility for which the alien wil perform the services, or" and inserting "for each facility (whic facility shall include the petitioner and each worksite, othe than a private household worksite, if the worksite is not th alien's employer or controlled by the employer) for which th alien will perform the services, or".

(B) Section 212(m)(2)(A) (8 U.S.C. 1182(m)(2)(A)) is amended—

(i) by striking ", with respect to a facility for which a alien will perform services,",

(ii) in clause (iii), by inserting "employed by the facility after "The alien", and

(iii) by adding at the end the following: "In the case of a alien for whom an employer has filed an attestation unde this subparagraph and who is performing services at worksite other than the employer's or other than a worksit controlled by the employer, the Secretary may waive suc requirements for the attestation for the worksite as may b appropriate in order to avoid duplicative attestations, i cases of temporary, emergency circumstances, with respec to information not within the knowledge of the attestor, o for other good cause.".

Effective date.
8 USC 1101 note.

(3) The amendments made by this subsection shall apply a though included in the enactment of the Immigration Nursin Relief Act of 1989.

# TITLE II—NONIMMIGRANTS

## Subtitle A—General and Permanent Provision

### SEC. 201. REVISION AND EXTENSION OF THE VISA WAIVER PILOT PRO GRAM FOR FOREIGN TOURISTS (B NONIMMIGRANTS).

(a) IN GENERAL.—Section 217 (8 U.S.C. 1187) is amended—

(1) in subsection (a)(2), by inserting ", and presents a passpor issued by," after "is a national of";

(2) in subsection (a)(3)—

(A) by striking "ENTRY CONTROL AND WAIVER FORMS" an inserting "IMMIGRATION FORMS", and

(B) by striking all that follows "such admission" an inserting "completes such immigration form as the Attor ney General shall establish.";

(3) by striking paragraph (4) of subsection (a) and insertin the following:

"(4) ENTRY BY SEA OR AIR.—If arriving by sea or air, the alie arrives at the port of entry into the United States on a carrie which has entered into an agreement with the Service t guarantee transport of the alien out of the United States if th

alien is found inadmissible or deportable by an immigration officer.";

(4) by adding at the end of subsection (a) the following new paragraph:

"(7) ROUND-TRIP TICKET.—The alien is in possession of a round-trip transportation ticket (unless this requirement is waived by the Attorney General under regulations).";

(5) in subsection (b)—

(A) by striking the heading and paragraphs (1) through (3), and

(B) by redesignating paragraph (4) (and subparagraphs (A) and (B) thereof) as subsection (b) (and paragraphs (1) and (2) thereof, respectively), and moving the indentation of such redesignated subsection and paragraphs 2 ems to the left;

(6) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "UP TO 8 COUNTRIES" in the heading and inserting "IN GENERAL", and

(ii) by striking all that follows "may designate" and inserting "any country as a pilot program country if it meets the requirements of paragraph (2).."; and

(B) in paragraph (2)—

(i) by striking "INITIAL QUALIFICATIONS" in the heading and inserting "QUALIFICATIONS",

(ii) by striking "For the initial period described in paragraph (4), a country" and inserting "A country", and

(iii) by adding at the end the following new subparagraphs:

"(C) MACHINE READABLE PASSPORT PROGRAM.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readable passports to its citizens.

"(D) LAW ENFORCEMENT INTERESTS.—The Attorney General determines that the United States law enforcement interests would not be compromised by the designation of the country.";

(7) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) AUTHORITY.—Notwithstanding any other provision of this section, the Attorney General and the Secretary of State, acting jointly, may for any reason (including national security) refrain from waiving the visa requirement in respect to nationals of any country which may otherwise qualify for designation or may, at any time, rescind any waiver or designation previously granted under this section.";

(8) in subsection (e)(1), as so redesignated—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end the following new subparagraph:

"(C) to be subject to the imposition of fines resulting from the transporting into the United States of a national of a designated country without a passport pursuant to regulations promulgated by the Attorney General."; and

(9) in subsection (f), as so redesignated, by striking all tha follows "the period beginning" and inserting "on October 1 1988, and ending on September 30, 1994.".

(b) PENALTY FOR TRANSPORT OF ALIENS WITHOUT VALID VISAS.— Section 273 (8 U.S.C. 1323) is amended—

(1) in subsection (a), by inserting "a valid passport and" befor "an unexpired visa", and

(2) in subsection (c), by inserting "valid passport or" befor "visa was required".

8 USC 1187 note.

(c) REPORT.—By not later than January 1, 1992, the Attorney General, in consultation with the Secretary of State, shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on the operation of the automated data arrival and departure control system for foreign visitors and on admission refusals and overstays for such visitors who have entered under the visa waiver program.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the date of the enactment of this Act.

Maritime carriers.
Air carriers.

SEC. 202. DENIAL OF CREWMEMBER STATUS IN THE CASE OF CERTAIN LABOR DISPUTES (D NONIMMIGRANTS).

8 USC 1187 note.

(a) IN GENERAL.—Section 214 (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (3), no alien shall be entitled to nonimmigrant status described in section 101(a)(15)(D) if the alien intends to land for the purpose of performing service on board a vessel of the United States (as defined in section 2101(46) of title 46, United States Code) or on an aircraft of an air carrier (as defined in section 101(3) of the Federal Aviation Act of 1958) during a labor dispute where there is a strike or lockout in the bargaining unit of the employer in which the alien intends to perform such service.

"(2) An alien described in paragraph (1)—

"(A) may not be paroled into the United States pursuant to section 212(d)(5) unless the Attorney General determines that the parole of such alien is necessary to protect the national security of the United States; and

"(B) shall be considered not to be a bona fide crewman for purposes of section 252(b).

"(3) Paragraph (1) shall not apply to an alien if the air carrier or owner or operator of such vessel that employs the alien provides documentation that satisfies the Attorney General that the alien—

"(A) has been an employee of such employer for a period of not less than 1 year preceding the date that a strike or lawful lockout commenced;

"(B) has served as a qualified crewman for such employer at least once in each of 3 months during the 12-month period preceding such date; and

"(C) shall continue to provide the same services that such alien provided as such a crewman.".

(b) CONFORMING AMENDMENT.—Section 212(d)(5)(A) (8 U.S.C 1182(d)(5)(A)) is amended by inserting "or in section 214(f)" after "except as provided in subparagraph (B)".

8 USC 1182 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 60 days after the date of the enactment of this Act

EC. 203. LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEN (D NONIMMIGRANTS). Maritime carriers.

(a) LIMITATION ON ALIENS.—

(1) IN GENERAL.—Chapter 6 of title II is amended by adding at the end the following new section:

"LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEN

"SEC. 258. (a) IN GENERAL.—For purposes of section 101(a)(15)(D)(i), he term 'normal operation and service on board a vessel' does not nclude any activity that is longshore work (as defined in subsection o)), except as provided under subsection (c) or subsection (d). 8 USC 1288.

"(b) LONGSHORE WORK DEFINED.—

"(1) IN GENERAL.—In this section, except as provided in paragraph (2), the term 'longshore work' means any activity relating to the loading or unloading of cargo, the operation of cargo-related equipment (whether or not integral to the vessel), and the handling of mooring lines on the dock when the vessel is made fast or let go, in the United States or the coastal waters thereof.

"(2) EXCEPTION FOR SAFETY AND ENVIRONMENTAL PROTECTION.—The term 'longshore work' does not include the loading or unloading of any cargo for which the Secretary of Transportation has, under the authority contained in chapter 37 of title 46, United States Code (relating to Carriage of Liquid Bulk Dangerous Cargoes), section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), section 4106 of the Oil Pollution Act of 1990, or section 105 or 106 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1804, 1805) prescribed regulations which govern—

"(A) the handling or stowage of such cargo,

"(B) the manning of vessels and the duties, qualifications, and training of the officers and crew of vessels carrying such cargo, and

"(C) the reduction or elimination of discharge during ballasting, tank cleaning, handling of such cargo.

"(3) CONSTRUCTION.—Nothing in this section shall be construed as broadening, limiting, or otherwise modifying the meaning or scope of longshore work for purposes of any other law, collective bargaining agreement, or international agreement.

"(c) PREVAILING PRACTICE EXCEPTION.—(1) Subsection (a) shall not pply to a particular activity of longshore work in and about a local ort if—

"(A)(i) there is in effect in the local port one or more collective bargaining agreements each covering at least 30 percent of the number of individuals employed in performing longshore work and (ii) each such agreement (covering such percentage of longshore workers) permits the activity to be performed by alien crewmen under the terms of such agreement; or

"(B) there is no collective bargaining agreement in effect in the local port covering at least 30 percent of the number of individuals employed in performing longshore work, and an employer of alien crewmen (or the employer's designated agent or representative) has filed with the Secretary of Labor at least 14 days before the date of performance of the activity (or later,

if necessary due to an unanticipated emergency, but not lat
than the date of performance of the activity) an attestati
setting forth facts and evidence to show that—

"(i) the performance of the activity by alien crewmen
permitted under the prevailing practice of the particul
port as of the date of filing of the attestation and that t
use of alien crewmen for such activity—

"(I) is not during a strike or lockout in the course of
labor dispute, and

"(II) is not intended or designed to influence a
election of a bargaining representative for workers
the local port; and

"(ii) notice of the attestation has been provided by t
owner, agent, consignee, master, or commanding officer
the bargaining representative of longshore workers in t
local port, or, where there is no such bargaining represent
tive, notice of the attestation has been provided
longshore workers employed at the local port.

In applying subparagraph (B) in the case of a particular activity
longshore work consisting of the use of an automated self-unloadi
conveyor belt or vacuum-actuated system on a vessel, the attestati
shall be required to be filed only if the Secretary of Labor find
based on a preponderance of the evidence which may be submitte
by any interested party, that the performance of such particul
activity is not described in clause (i) of such subparagraph.

"(2) Subject to paragraph (4), an attestation under paragraph (
shall—

"(A) expire at the end of the 1-year period beginning on t
date of its filing with the Secretary of Labor, and

"(B) apply to aliens arriving in the United States during su
1-year period if the owner, agent, consignee, master,
commanding officer states in each such list under section 2
that it continues to comply with the conditions in the attest
tion.

"(3) An owner, agent, consignee, master, or commanding offic
may meet the requirements under this subsection with respect
more than one alien crewman in a single list.

Public information. District of Columbia.

"(4)(A) The Secretary of Labor shall compile and make availab
for public examination in a timely manner in Washington, D.C.,
list identifying owners, agents, consignees, masters, or commandi
officers which have filed lists for nonimmigrants described in se
tion 101(a)(15)(D)(i) with respect to whom an attestation under par
graph (1) is made and, for each such entity, a copy of the entity
attestation under paragraph (1) (and accompanying documentatio
and each such list filed by the entity.

Investigations.

"(B)(i) The Secretary of Labor shall establish a process for t
receipt, investigation, and disposition of complaints respecting a
entity's failure to meet conditions attested to, an entity's misrepr
sentation of a material fact in an attestation, or, in the ca
described in the last sentence of paragraph (1), whether the perfor
ance of the particular activity is or is not described in paragra
(1)(B)(i).

"(ii) Complaints may be filed by any aggrieved person or organiz
tion (including bargaining representatives, associations deem
appropriate by the Secretary, and other aggrieved parties as dete
mined under regulations of the Secretary).

"(iii) The Secretary shall promptly conduct an investigation under
s subparagraph if there is reasonable cause to believe that an
tity fails to meet conditions attested to, an entity has misrepre-
ted a material fact in the attestation, or, in the case described in
e last sentence of paragraph (1), the performance of the particular
tivity is not described in paragraph (1)(B)(i).

"(C)(i) If the Secretary determines that reasonable cause exists to
nduct an investigation with respect to an attestation, a complain-
g party may request that the activities attested to by the employer
se during the hearing process described in subparagraph (D). If
h a request is made, the attesting employer shall be issued notice
such request and shall respond within 14 days to the notice. If the
cretary makes an initial determination that the complaining
rty's position is supported by a preponderance of the evidence
bmitted, the Secretary shall require immediately that the em-
yer cease and desist from such activities until completion of the
cess described in subparagraph (D).

"(ii) If the Secretary determines that reasonable cause exists to
nduct an investigation with respect to a matter under the last
ntence of paragraph (1), a complaining party may request that the
tivities of the employer cease during the hearing process described
subparagraph (D) unless the employer files with the Secretary of
bor an attestation under paragraph (1). If such a request is made,
e employer shall be issued notice of such request and shall re-
nd within 14 days to the notice. If the Secretary makes an initial
termination that the complaining party's position is supported by
preponderance of the evidence submitted, the Secretary shall
quire immediately that the employer cease and desist from such
tivities until completion of the process described in subparagraph
) unless the employer files with the Secretary of Labor an attesta-
n under paragraph (1).

"(D) Under the process established under subparagraph (B), the
cretary shall provide, within 180 days after the date a complaint
filed (or later for good cause shown), for a determination as to
ether or not a basis exists to make a finding described in subpara-
aph (E). The Secretary shall provide notice of such determination
the interested parties and an opportunity for a hearing on the
mplaint within 60 days of the date of the determination.

"(E)(i) If the Secretary of Labor finds, after notice and opportunity
r a hearing, that an entity has failed to meet a condition attested
or has made a misrepresentation of material fact in the attesta-
n, the Secretary shall notify the Attorney General of such finding
d may, in addition, impose such other administrative remedies
cluding civil monetary penalties in an amount not to exceed
,000 for each alien crewman performing unauthorized longshore
rk) as the Secretary determines to be appropriate. Upon receipt of
ch notice, the Attorney General shall not permit the vessels
ned or chartered by such entity to enter any port of the United
ates during a period of up to 1 year.

"(ii) If the Secretary of Labor finds, after notice and opportunity
r a hearing, that, in the case described in the last sentence of
ragraph (1), the performance of the particular activity is not
scribed in subparagraph (B)(i), the Secretary shall notify the
torney General of such finding and, thereafter, the attestation
scribed in paragraph (1) shall be required of the employer for the
rformance of the particular activity.

"(F) A finding by the Secretary of Labor under this paragra that the performance of an activity by alien crewmen is not p mitted under the prevailing practice of a local port shall precl for one year the filing of a subsequent attestation concerning s activity in the port under paragraph (1).

"(d) RECIPROCITY EXCEPTION.—

"(1) IN GENERAL.—Subject to the determination of the S retary of State pursuant to paragraph (2), the Attorney Gene shall permit an alien crewman to perform an activity consti ing longshore work if—

"(A) the vessel is registered in a country that by l regulation, or in practice does not prohibit such activity crewmembers aboard United States vessels; and

"(B) nationals of a country (or countries) which by l regulation, or in practice does not prohibit such activity crewmembers aboard United States vessels hold a majo of the ownership interest in the vessel.

"(2) ESTABLISHMENT OF LIST.—The Secretary of State shall accordance with section 553 of title 5, United States Co compile and annually maintain a list, of longshore work particular activity, of countries where performance of suc particular activity by crewmembers aboard United Sta vessels is prohibited by law, regulation, or in practice in country. By not later than 90 days after the date of the en ment of this section, the Secretary shall publish a notice proposed rulemaking to establish such list. The Secretary sh first establish such list by not later than 180 days after the d of the enactment of this section.

"(3) IN PRACTICE DEFINED.—For purposes of this subsect the term 'in practice' refers to an activity normally perfor in such country during the one-year period preceding the rival of such vessel into the United States or coastal wat thereof.".

8 USC 1288 note. (2) NO APPLICATION TO CITIZENS OR NATIONALS OF THE UNI STATES.—This section does not affect the performance longshore work in the United States by citizens or national the United States.

(3) CLERICAL AMENDMENT.—The table of contents is amen by inserting after the item relating to section 257 the follow new item:

"Sec. 258. Limitations on performance of longshore work by alien crewmen.".

(b) PENALTIES.—Section 251(d) (8 U.S.C. 1281(d)) is amende

(1) in the first sentence by striking "pay to" and all t follows through "$10" and inserting "pay to the Commissio the sum of $200"; and

(2) by inserting after the first sentence the following: "In case that any owner, agent, consignee, master, or command officer of a vessel shall secure services of an alien crewm described in section 101(a)(15)(D)(i) to perform longshore w not included in the normal operation and service on board vessel under section 258, the owner, agent, charterer, master commanding officer shall pay to the Commissioner the sun $5,000, and such fine shall be a lien against the vessel.".

(c) CONFORMING AMENDMENTS.—Section 101(a)(15)(D)(i) (8 U. 1101(a)(15)(D)(i)) is amended—

(1) by striking "any capacity" and inserting "a capacity",

(2) by inserting ", as defined in section 258(a)" after "on board a vessel".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed on or after 180 days after the date of the enactment of this Act. 8 USC 1101 note.

SEC. 204. TREATY TRADERS (E NONIMMIGRANTS).

(a) INCLUDING TRADE IN SERVICES AND TECHNOLOGY.—Section 101(a)(15)(E)(i) (8 U.S.C. 1101(a)(15)(E)(i)) is amended by inserting , including trade in services or trade in technology" after "substantial trade".

(b) APPLICATION OF TREATY TRADER FOR CERTAIN FOREIGN STATES.—Each of the following foreign states shall be considered, for purposes of section 101(a)(15)(E) of the Immigration and Nationality Act, to be a foreign state described in such section if the foreign state extends reciprocal nonimmigrant treatment to nationals of the United States: 8 USC 1101 note.

(1) The largest foreign state in each region (as defined in section 203(c)(1) of the Immigration and Nationality Act) which (A) has 1 or more dependent areas (as determined for purposes of section 202 of such Act) and (B) does not have a treaty of commerce and navigation with the United States.

(2) The foreign state which (A) was identified as an adversely affected foreign state for purposes of section 314 of the Immigration Reform and Control Act of 1986 and (B) does not have a treaty of commerce and navigation with the United States, but (C) had such a treaty with the United States before 1925.

(c) SUBSTANTIAL DEFINED.—Section 101(a), as amended by section 223 of this Act, is further amended by adding at the end the following new paragraph:

"(45) The term 'substantial' means, for purposes of paragraph (15)(E) with reference to trade or capital, such an amount of trade or capital as is established by the Secretary of State, after consultation with appropriate agencies of Government.".

SEC. 205. TEMPORARY WORKERS AND TRAINEES (H NONIMMIGRANTS).

(a) LIMITATION ON NUMBERS.—Section 214 (8 U.S.C. 1184), as amended by section 202(a), is amended by adding at the end the following new subsection:

"(g)(1) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year beginning with fiscal year 1992)—

"(A) under section 101(a)(15)(H)(i)(b) may not exceed 65,000,

"(B) under section 101(a)(15)(H)(ii)(b) may not exceed 66,000, or

"(C) under section 101(a)(15)(P)(i) or section 101(a)(15)(P)(iii) may not exceed 25,000.

"(2) The numerical limitations of paragraph (1) shall only apply to principal aliens and not to the spouses or children of such aliens.

"(3) Aliens who are subject to the numerical limitations of paragraph (1) shall be issued visas (or otherwise provided nonimmigrant status) in the order in which petitions are filed for such visas or status.

"(4) In the case of a nonimmigrant described in section 101(a)(15)(H)(i)(b), the period of authorized admission as such a nonimmigrant may not exceed 6 years.".

(b) CONSTRUCTION RESPECTING INTENT WITH RESPECT TO ABANDONMENT OF FOREIGN RESIDENCE.—Section 214, as amended by section 202(a) and by subsection (a), is further amended—

(1) in subsection (b), by inserting "(other than a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15))" after "Every alien", and

(2) by adding at the end the following new subsection:

"(h) The fact that an alien is the beneficiary of an application for a preference status filed under section 204 or has otherwise sought permanent residence in the United States shall not constitute evidence of an intention to abandon a foreign residence for purposes of obtaining a visa as a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15) or otherwise obtaining or maintaining the status of a nonimmigrant described in such subparagraph, if the alien had obtained a change of status under section 248 to a classification as such a nonimmigrant before the alien's most recent departure from the United States.".

(c) REVISION OF H-1B CATEGORY.—

(1) IN GENERAL.—Subclause (b) of section 101(a)(15)(H)(i) (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking "who is of distinguished" and all that follows through "such institution or agency" and inserting the following: "who is coming temporarily to the United States to perform services (other than services described in subclause (a) during the period in which such subclause applies and other than services described in subclause (ii)(a) or in subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1), who meets the requirements for the occupation specified in section 214(i)(2), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that the intending employer has filed with, and had approved by, the Secretary an application under section 212(n)(1)".

(2) SPECIALTY OCCUPATION DEFINED.—Section 214, as amended by section 202(a) and subsections (a) and (b), is further amended by adding at the end the following new subsection:

"(i)(1) For purposes of section 101(a)(15)(H)(i)(b) and paragraph (2), the term 'specialty occupation' means an occupation that requires—

"(A) theoretical and practical application of a body of highly specialized knowledge, and

"(B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

"(2) For purposes of section 101(a)(15)(H)(i)(b), the requirements of this paragraph, with respect to a specialty occupation, are—

"(A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation,

"(B) completion of the degree described in paragraph (1)(B) for the occupation, or

"(C)(i) experience in the specialty equivalent to the completion of such degree, and (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.".

8 USC 1182.

(3) LABOR CONDITION APPLICATION FOR H-1B.—Section 212 is amended by adding at the end the following new subsection:

"(n)(1) No alien may be admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) in an occupational

lassification unless the employer has filed with the Secretary of abor an application stating the following:

"(A) The employer—

"(i) is offering and will offer during the period of authorized employment to aliens and to other individuals employed in the occupational classification and in the area of employment wages that are at least— Wages.

"(I) the actual wage level for the occupational classification at the place of employment, or

"(II) the prevailing wage level for the occupational classification in the area of employment,

whichever is greater, determined as of the time of filing the application, and

"(ii) will provide working conditions for such aliens that will not adversely affect the working conditions of workers similarly employed.

"(B) There is not a strike or lockout in the course of a labor dispute in the occupational classification at the place of employment.

"(C) The employer, at the time of filing the application—

"(i) has provided notice of the filing under this paragraph to the bargaining representative (if any) of the employer's employees in the occupational classification and area for which aliens are sought, or

"(ii) if there is no such bargaining representative, has posted notice of filing in conspicuous locations at the place of employment.

"(D) The application shall contain a specification of the number of workers sought, the occupational classification in which the workers will be employed, and wage rate and conditions under which they will be employed. The employer shall make available for public examination, within one working day after the date on which an application under this paragraph is filed, at the employer's principal place of business or worksite, a copy of each such application (and accompanying documentation). The Secretary shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under this subsection. Such list shall include the wage rate, number of aliens sought, period of intended employment, and date of need. The Secretary shall make such list available for public examination in Washington, D.C. Public information. Public information. District of Columbia.

"(2)(A) The Secretary shall establish a process for the receipt, nvestigation, and disposition of complaints respecting a petitioner's ailure to meet a condition specified in an application submitted nder paragraph (1) or a petitioner's misrepresentation of material acts in such an application. Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively. The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred. Investigations.

"(B) Under such process, the Secretary shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C). If the Secretary determines that such

a reasonable basis exists, the Secretary shall provide for notice c such determination to the interested parties and an opportunity fo a hearing on the complaint, in accordance with section 556 of title United States Code, within 60 days after the date of the determina tion. If such a hearing is requested, the Secretary shall make finding concerning the matter by not later than 60 days after th date of the hearing. In the case of similar complaints respecting th same applicant, the Secretary may consolidate the hearings unde this subparagraph on such complaints.

"(C) If the Secretary finds, after notice and opportunity for hearing, a failure to meet a condition (or a substantial failure in th case of a condition described in subparagraph (C) or (D) of paragrap (1)) or misrepresentation of material fact in an application—

"(i) the Secretary shall notify the Attorney General of suc finding and may, in addition, impose such other administrativ remedies (including civil monetary penalties in an amount nc to exceed $1,000 per violation) as the Secretary determines to b appropriate, and

"(ii) the Attorney General shall not approve petitions file with respect to that employer under section 204 or 214(c) durin a period of at least 1 year for aliens to be employed by th employer.

"(D) In addition to the sanctions provided under subparagraph (C if the Secretary finds, after notice and opportunity for a hearing that an employer has not paid wages at the wage level specifie under the application and required under paragraph (1), the Se retary shall order the employer to provide for payment of suc amounts of back pay as may be required to comply with the requir ments of paragraph (1).".

(d) LIMITATION ON TRAINEES.—Section 101(a)(15)(H)(iii) (8 U.S.C 1101(a)(15)(H)(iii)) is amended by inserting before the semicolon a the end the following: ", in a training program that is not designe primarily to provide productive employment".

(e) REMOVAL OF FOREIGN RESIDENCE REQUIREMENT FOR H-NONIMMIGRANTS.—Section 101(a)(15)(H) (8 U.S.C. 1101(a)(15)(H)) amended—

(1) by striking "having a residence in a foreign country whic he has no intention of abandoning";

(2) in clause (ii), by striking "who is coming temporarily to th United States (a)" and inserting "(a) having a residence in foreign country which he has no intention of abandoning who coming temporarily to the United States";

(3) in clause (ii)(b), by inserting "having a residence in foreign country which he has no intention of abandoning who coming temporarily to the United States" immediately aft "(b)"; and

(4) in clause (iii), by inserting "having a residence in a foreig country which he has no intention of abandoning" after "(iii)"

**SEC. 206. INTRA-COMPANY TRANSFEREES (L NONIMMIGRANTS).**

8 USC 1101 note.

(a) CLARIFICATION OF TREATMENT OF CERTAIN INTERNATIONA ACCOUNTING FIRMS.—In applying sections 101(a)(15)(L) an 203(b)(1)(C) of the Immigration and Nationality Act, in the case of partnership that is organized in the United States to provic accounting services and that markets its accounting services unde an internationally recognized name under an agreement with worldwide coordinating organization that is owned and controlle

y the member accounting firms, a partnership (or similar organization) that is organized outside the United States to provide accounting services shall be considered to be an affiliate of the United tates partnership if it markets its accounting services under the ame internationally recognized name under the agreement with he worldwide coordinating organization of which the United States artnership is also a member.

(b) USE OF BLANKET PETITIONS; DEADLINES FOR PROCESSING; PERIDS OF AUTHORIZED STAY; CONSTRUCTION.—Section 214(c) (8 U.S.C. 184(c)) is amended—

(1) by inserting "(1)" after "(c)", and

(2) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall provide for a procedure under vhich an importing employer which meets requirements established y the Attorney General may file a blanket petition to import aliens s nonimmigrants described in section 101(a)(15)(L) instead of filing ndividuals petitions under paragraph (1) to import such aliens. uch procedure shall permit the expedited processing of visas for ntry of aliens covered under such a petition.

"(B) For purposes of section 101(a)(15)(L), an alien is considered to e serving in a capacity involving specialized knowledge with repect to a company if the alien has a special knowledge of the ompany product and its application in international markets or has n advanced level of knowledge of processes and procedures of the ompany.

"(C) The Attorney General shall provide a process for reviewing nd acting upon petitions under this subsection with respect to onimmigrants described in section 101(a)(15)(L) within 30 days fter the date a completed petition has been filed.

"(D) The period of authorized admission for—

"(i) a nonimmigrant admitted to render services in a managerial or executive capacity under section 101(a)(15)(L) shall not exceed 7 years, or

"(ii) a nonimmigrant admitted to render services in a capacity that involved specialized knowledge under section 101(a)(15)(L) shall not exceed 5 years.".

(c) PERIOD OF PRIOR EMPLOYMENT WITH COMPANY.—Section 101(a)(15)(L) (8 U.S.C. 1101(a)(15)(L)) is amended by striking "immediately preceding" and inserting "within 3 years preceding".

SEC. 207. NEW CLASSIFICATION FOR ALIENS WITH EXTRAORDINARY ABILITY, ACCOMPANYING ALIENS, AND ATHLETES AND ENTERTAINERS (O & P NONIMMIGRANTS).

(a) IN GENERAL.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended—

(1) by striking "or" at the end of subparagraph (M),

(2) by striking the period at the end of subparagraph (N) and inserting a semicolon, and

(3) by adding at the end the following new subparagraphs:

"(O) an alien who—

"(i) has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim or, with regard to motion picture and television productions a demonstrated record of extraordinary achievement, and whose achievements have been recognized in the field through extensive documentation, and seeks to enter the United

States to continue work in the area of extraordinary abilit
but only if the Attorney General determines that the alien
entry into the United States will substantially benef
prospectively the United States; or

"(ii)(I) seeks to enter the United States temporarily an
solely for the purpose of accompanying and assisting in th
artistic or athletic performance by an alien who is admitte
under clause (i) for a specific event or events,

"(II) is an integral part of such actual performance,

"(III)(a) has critical skills and experience with such alie
which are not of a general nature and which cannot b
performed by other individuals, or (b) in the case of
motion picture or television production, has skills an
experience with such alien which are not of a gener
nature and which are critical either based on a pre-existin
longstanding working relationship or, with respect to th
specific production, because significant principal photo
raphy will take place both inside and outside the Unite
States and the continuing participation of the alien
essential to the successful completion of the production, an

"(IV) has a foreign residence which the alien has n
intention of abandoning; or

"(iii) is the alien spouse or child of an alien described i
clause (i) or (ii) and is accompanying, or following to joi
the alien; or

"(P) an alien having a foreign residence which the alien ha
no intention of abandoning who—

"(i)(I) performs as an athlete, individually or as part of
group or team, at an internationally recognized level
performance, or performs as part of an entertainme
group that has been recognized internationally as bei
outstanding in the discipline for a sustained and substanti
period of time and has had a sustained and substanti
relationship with that group over a period of at least 1 ye
and provides functions integral to the performance of th
group, and

"(II) seeks to enter the United States temporarily an
solely for the purpose of performing as such an athlete
entertainer with respect to a specific athletic competition
performance;

"(ii)(I) performs as an artist or entertainer, individual
or as part of a group, or is an integral part of the perfor
ance of such a group, and

"(II) seeks to enter the United States temporarily an
solely for the purpose of performing as such an artist
entertainer or with such a group under a reciprocal e
change program which is between an organization
organizations in the United States and an organization
one or more foreign states and which provides for th
temporary exchange of artists and entertainers, or grou
of artists and entertainers, between the United States an
the foreign states involved;

"(iii)(I) performs as an artist or entertainer, individual
or as part of a group, or is an integral part of the perfor
ance of such a group, and

"(II) seeks to enter the United States temporarily an
solely for the purpose of performing as such an artist

entertainer or with such a group under a program that is culturally unique; or

"(iv) is the spouse or child of an alien described in clause (i), (ii), or (iii) and is accompanying, or following to join, the alien.".

(b) PERIODS OF ADMISSION, ETC.—Section 214 (8 U.S.C. 1184) is amended—

(1) in subsection (a), by inserting "(1)" after "(a)" and by adding at the end the following new paragraph:

"(2)(A) The period of authorized status as a nonimmigrant under section 101(a)(15)(O) shall be for such period as the Attorney General may specify in order to provide for the event for which the nonimmigrant is admitted.

"(B)(i) The period of authorized status as a nonimmigrant described in section 101(a)(15)(P) shall be for such period as the Attorney General may specify in order to provide for the competition, event, or performance for which the nonimmigrant is admitted. In the case of nonimmigrants admitted as individual athletes under section 101(a)(15)(P), the period of authorized status may be for an initial period (not to exceed 5 years) during which the nonimmigrant will perform as an athlete and such period may be extended by the Attorney General for an additional period of up to 5 years.

"(ii) An alien who is admitted as a nonimmigrant under clause (ii) or (iii) of section 101(a)(15)(P) may not be readmitted as such a nonimmigrant unless the alien has remained outside the United States for at least 3 months after the date of the most recent admission. The Attorney General may waive the application of the previous sentence in the case of individual tours in which the application would work an undue hardship."; and

(2) in subsection (c), as amended by section 206(b)—

(A) in paragraph (1), by striking "or (L)" and inserting ", (L), (O), or (P)(i)", and

(B) by adding at the end the following new paragraphs:

"(3) The Attorney General shall approve a petition—

"(A) with respect to a nonimmigrant described in section 101(a)(15)(O)(i) only after consultation with peer groups in the area of the alien's ability or, with respect to aliens seeking entry for a motion picture or television production, after consultation with the appropriate union representing the alien's occupational peers and a management organization in the area of the alien's ability, or

"(B) with respect to a nonimmigrant described in section 101(a)(15)(O)(ii) after consultation with labor organizations with expertise in the skill area involved.

In the case of an alien seeking entry for a motion picture or television production, (i) any opinion under the previous sentence shall only be advisory, (ii) any such opinion that recommends denial must be in writing, (iii) in making the decision the Attorney General shall consider the exigencies and scheduling of the production, and (iv) the Attorney General shall append to the decision any such opinion.

"(4)(A) A person may petition the Attorney General for classification of an alien as a nonimmigrant under clause (ii) of section 101(a)(15)(P).

"(B) The Attorney General shall approve petitions under this subsection with respect to nonimmigrants described in clause (i) or (iii) of section 101(a)(15)(P) only after consultation with labor

organizations with expertise in the specific field of athletics entertainment involved.

"(C) The Attorney General shall approve petitions under th subsection for nonimmigrants described in section 101(a)(15)(P)( only after consultation with labor organizations representing artis and entertainers in the United States, in order to assure reciproci in fact with foreign states.

"(5) In the case of an alien who is provided nonimmigrant stat under section 101(a)(15)(H)(i)(b) or 101(H)(ii)(b) and who is dismiss from employment by the employer before the end of the period authorized admission, the employer shall be liable for the reaso able costs of return transportation of the alien abroad.

"(6) If a petition is filed and denied under this subsection, t Attorney General shall notify the petitioner of the determinati and the reasons for the denial and of the process by which t petitioner may appeal the determination.".

8 USC 1184 note.

(c) WORK AUTHORIZATION DURING PENDING LABOR DISPUTES.—( In the case of an alien admitted as a nonimmigrant (other th under section 101(a)(15)(H)(ii)(a)) and who is authorized to be e ployed in an occupation, if nonimmigrants constitute a majority the members of the bargaining unit in the occupation, during t period of any strike or lockout in the occupation with the employ which strike or lockout is pending on the date of the enactment this Act the alien—

(A) continues to be authorized to be employed in the occup tion for that employer, and

(B) is authorized to be employed in any occupation for a other employer so long as such strike or lockout continues wi respect to that occupation and employer.

(2) In the case of an alien admitted as a nonimmigrant (other th under section 101(a)(15)(H)(ii)(a)) and who is authorized to be e ployed in an occupation, if nonimmigrants do not constitute majority of the members of the bargaining unit in the occupatio during the period of any strike or lockout in the occupation with t employer which strike or lockout is pending on the date of t enactment of this Act the alien—

(A) is not authorized to be employed in the occupation for th employer, and

(B) is authorized to be employed in any occupation for a other employer so long as there is no strike or lockout wi respect to that occupation and employer.

(3) With respect to a nonimmigrant described in paragraph (1) (2) who does not perform unauthorized employment, any limit the period of authorized stay shall be extended by the period of t strike or lockout, except that any such extension may not contin beyond the maximum authorized period of stay.

Effective date.

(4) The provisions of this subsection shall take effect on the date the enactment of this Act.

**SEC. 208. NEW CLASSIFICATION FOR INTERNATIONAL CULTURAL E CHANGE PROGRAMS (Q NONIMMIGRANTS).**

Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by secti 207(a), is further amended—

(1) by striking "or" at the end of subparagraph (O),

(2) by striking the period at the end of subparagraph (P) a inserting "; or", and

(3) by adding at the end the following new subparagra

"(Q) an alien having a residence in a foreign country which he has no intention of abandoning who is coming temporarily (for a period not to exceed 15 months) to the United States as a participant in an international cultural exchange program designated by the Attorney General for the purpose of providing practical training, employment, and the sharing of the history, culture, and traditions of the country of the alien's nationality and who will be employed under the same wages and working conditions as domestic workers.".

EC. 209. NEW CLASSIFICATION FOR ALIENS IN RELIGIOUS OCCUPATIONS (R NONIMMIGRANTS).

(a) IN GENERAL.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as mended by sections 207(a) and 208, is further amended—

(1) by striking "or" at the end of subparagraph (P),

(2) by striking the period at the end of subparagraph (Q) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(R) an alien, and the spouse and children of the alien if accompanying or following to join the alien, who—

"(i) for the 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States; and

"(ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii).".

(b) REFERENCE TO REVISION OF SPECIAL IMMIGRANT PROVISIONS.— or provision providing special immigrant status for certain aliens religious occupations, see section 151.

## Subtitle B—Temporary or Limited Provisions

EC. 221. OFF-CAMPUS WORK AUTHORIZATION FOR STUDENTS (F NONIMMIGRANTS). 8 USC 1184 note.

(a) 3-YEAR PROVISION.—With respect to work authorization for iens admitted as nonimmigrant students described in subparaaph (F) of section 101(a)(15) of the Immigration and Nationality ct during the 3-year period beginning October 1, 1991, the Attorey General shall grant such an alien work authorization to be nployed in a position unrelated to the alien's field of study and offmpus if—

(1) the alien has completed 1 year as such a nonimmigrant and is maintaining good academic standing at the educational institution,

(2) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer (A) has recruited for at least 60 days for the position and (B) will provide for payment to the alien and to other similarly situated workers at a rate equal to not less than the actual wage level for the occupation at the place of employment or, if greater, the prevailing wage level for the occupation in the area of employment, and

(3) the alien will not be employed more than 20 hours each week during the academic term (but may be employed on a full-

time basis during vacation periods and between academ terms).

If the Secretary of Labor determines that an employer has provid an attestation under paragraph (2) that is materially false or h failed to pay wages in accordance with the attestation, after noti and opportunity for a hearing, the employer shall be disqualifi from employing an alien student under this subsection.

(b) REPORT TO CONGRESS.—Not later than April 1, 1994, t Commissioner of Immigration and Naturalization shall prepare a submit to the Congress on—

(1) whether the program of work authorization under subse tion (a) should be extended, and

(2) the impact of such program on prevailing wages workers.

8 USC 1101 note.

**SEC. 222. ADMISSION OF NONIMMIGRANTS FOR COOPERATIVE R SEARCH, DEVELOPMENT, AND COPRODUCTION PROJECTS.**

(a) IN GENERAL.—Subject to the succeeding provisions of th section, the Attorney General shall provide for nonimmigrant stat in the case of an alien who—

(1) has a residence in a foreign country which the alien has intention of abandoning, and

(2) is coming to the United States, upon a basis of reciprocit to perform services of an exceptional nature requiring suc merit and ability relating to a cooperative research and develo ment project or a coproduction project provided under a gover ment-to-government agreement administered by the Secreta of Defense, but not to exceed a period of more than 10 yea or who is the spouse or minor child of such an alien if accompanyi or following to join the alien.

(b) NUMERICAL LIMITATION.—The number of aliens who may admitted as (or otherwise be provided the status of) a nonimmigra under this section at any time may not exceed 100.

8 USC 1101 note.

**SEC. 223. ESTABLISHMENT OF SPECIAL EDUCATION EXCHANGE VISITO PROGRAM.**

(a) IN GENERAL.—Subject to subsection (b), the Attorney Gener shall provide for nonimmigrant status in the case of an alien who-

(1) has a residence in a foreign country which the alien has intention of abandoning, and

(2) is coming temporarily to the United States (for a perio not to exceed 18 months) as a participant in a special educatio training program which provides for practical training a experience in the education of children with physical, menta or emotional disabilities.

(b) NUMERICAL LIMITATION.—The number of aliens who may admitted as (or otherwise be provided the status of) a nonimmigra under this section in any fiscal year may not exceed 50.

## Subtitle C—Effective Dates

8 USC 1101 note.

**SEC. 231. EFFECTIVE DATES.**

Except as otherwise provided in this title, this title, and t amendments made by this title, shall take effect on October 1, 199 except that sections 222 and 223 shall take effect on the date of t enactment of this Act.

# TITLE III—FAMILY UNITY AND TEMPORARY PROTECTED STATUS

8 USC 1255a note.

EC. 301. FAMILY UNITY.

(a) Temporary Stay of Deportation and Work Authorization or Certain Eligible Immigrants.—The Attorney General shall rovide that in the case of an alien who is an eligible immigrant (as efined in subsection (b)(1)) as of May 5, 1988, who has entered the nited States before such date, who resided in the United States on ich date, and who is not lawfully admitted for permanent resience, the alien—

(1) may not be deported or otherwise required to depart from the United States on a ground specified in paragraph (1), (2), (5), (9), or (12) of section 241(a) of the Immigration and Nationality Act (other than so much of section 241(a)(1) of such Act as relates to a ground of exclusion described in paragraph (9), (10), (23), (27), (28), (29), or (33) of section 212(a) of such Act), and

(2) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

(b) Eligible Immigrant and Legalized Alien Defined.—In this ection:

(1) The term "eligible immigrant" means a qualified immigrant who is the spouse or unmarried child of a legalized alien.

(2) The term "legalized alien" means an alien lawfully admitted for temporary or permanent residence who was provided—

(A) temporary or permanent residence status under section 210 of the Immigration and Nationality Act,

(B) temporary or permanent residence status under section 245A of the Immigration and Nationality Act, or

(C) permanent residence status under section 202 of the Immigration Reform and Control Act of 1986.

(c) Application of Definitions.—Except as otherwise specifically rovided in this section, the definitions contained in the Immigraion and Nationality Act shall apply in the administration of this ection.

(d) Temporary Disqualification From Certain Public Welfare ssistance.—Aliens provided the benefits of this section by virtue f their relation to a legalized alien described in subsection (b)(2)(A) r (b)(2)(B) shall be ineligible for public welfare assistance in the ame manner and for the same period as the legalized alien is neligible for such assistance under section 245A(h) or 210(f), respecively, of the Immigration and Nationality Act.

(e) Exception for Certain Aliens.—An alien is not eligible for he benefits of this section if the Attorney General finds that—

(1) the alien has been convicted of a felony or 3 or more misdemeanors in the United States, or

(2) the alien is described in section 243(h)(2) of the Immigration and Nationality Act.

(f) Construction.—Nothing in this section shall be construed as uthorizing an alien to apply for admission to, or to be admitted to, he United States in order to obtain benefits under this section.

(g) EFFECTIVE DATE.—This section shall take effect on October
1991; except that the delay in effectiveness of this section shall n
be construed as reflecting a Congressional belief that the existir
family fairness program should be modified in any way before suc
date.

SEC. 302. TEMPORARY PROTECTED STATUS.

(a) IN GENERAL.—The Immigration and Nationality Act
amended by inserting after section 244 the following new sectio

"TEMPORARY PROTECTED STATUS

8 USC 1254a.

"SEC. 244A. (a) GRANTING OF STATUS.—

"(1) IN GENERAL.—In the case of an alien who is a national
a foreign state designated under subsection (b) and who mee
the requirements of subsection (c), the Attorney General, i
accordance with this section—

"(A) may grant the alien temporary protected status i
the United States and shall not deport the alien from th
United States during the period in which such status is i
effect, and

"(B) shall authorize the alien to engage in employment i
the United States and provide the alien with an 'emplo
ment authorized' endorsement or other appropriate wor
permit.

"(2) DURATION OF WORK AUTHORIZATION.—Work authorizatic
provided under this section shall be effective throughout th
period the alien is in temporary protected status under th
section.

"(3) NOTICE.—

"(A) Upon the granting of temporary protected statu
under this section, the Attorney General shall provide th
alien with information concerning such status under th
section.

"(B) If, at the time of initiation of a deportation procee
ing against an alien, the foreign state (of which the alien
a national) is designated under subsection (b), the Attorne
General shall promptly notify the alien of the temporar
protected status that may be available under this sectio

"(C) If, at the time of designation of a foreign state und
subsection (b), an alien (who is a national of such state) is i
a deportation proceeding under this title, the Attorne
General shall promptly notify the alien of the temporar
protected status that may be available under this sectio

"(D) Notices under this paragraph shall be provided in
form and language that the alien can understand.

"(4) TEMPORARY TREATMENT FOR ELIGIBLE ALIENS.—

"(A) In the case of an alien who can establish a prim
facie case of eligibility for benefits under paragraph (1), bu
for the fact that the period of registration under subsectic
(c)(1)(A)(iv) has not begun, until the alien has had a reaso
able opportunity to register during the first 30 days of suc
period, the Attorney General shall provide for the benefi
of paragraph (1).

"(B) In the case of an alien who establishes a prima fac
case of eligibility for benefits under paragraph (1), until
final determination with respect to the alien's eligibility f

such benefits under paragraph (1) has been made, the alien shall be provided such benefits.

"(5) CLARIFICATION.—Nothing in this section shall be construed as authorizing the Attorney General to deny temporary protected status to an alien based on the alien's immigration status or to require any alien, as a condition of being granted such status, either to relinquish nonimmigrant or other status the alien may have or to execute any waiver of other rights under this Act. The granting of temporary protected status under this section shall not be considered to be inconsistent with the granting of nonimmigrant status under this Act.

"(b) DESIGNATIONS.—

"(1) IN GENERAL.—The Attorney General, after consultation with appropriate agencies of the Government, may designate any foreign state (or any part of such foreign state) under this subsection only if—

"(A) the Attorney General finds that there is an ongoing armed conflict within the state and, due to such conflict, requiring the return of aliens who are nationals of that state to that state (or to the part of the state) would pose a serious threat to their personal safety;

"(B) the Attorney General finds that—

"(i) there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary, disruption of living conditions in the area affected,

"(ii) the foreign state is unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state, and

"(iii) the foreign state officially has requested designation under this subparagraph; or

"(C) the Attorney General finds that there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the Attorney General finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.

A designation of a foreign state (or part of such foreign state) under this paragraph shall not become effective unless notice of the designation (including a statement of the findings under this paragraph and the effective date of the designation) is published in the Federal Register. In such notice, the Attorney General shall also state an estimate of the number of nationals of the foreign state designated who are (or within the effective period of the designation are likely to become) eligible for temporary protected status under this section and their immigration status in the United States.

Federal Register, publication.

"(2) EFFECTIVE PERIOD OF DESIGNATION FOR FOREIGN STATES.—The designation of a foreign state (or part of such foreign state) under paragraph (1) shall—

"(A) take effect upon the date of publication of the designation under such paragraph, or such later date as the Attorney General may specify in the notice published under such paragraph, and

"(B) shall remain in effect until the effective date of the termination of the designation under paragraph (3)(B).

For purposes of this section, the initial period of designation of a foreign state (or part thereof) under paragraph (1) is the period, specified by the Attorney General, of not less than 6 months and not more than 18 months.

"(3) PERIODIC REVIEW, TERMINATIONS, AND EXTENSIONS OF DESIGNATIONS.—

"(A) PERIODIC REVIEW.—At least 60 days before end of the initial period of designation, and any extended period of designation, of a foreign state (or part thereof) under this section the Attorney General, after consultation with appropriate agencies of the Government, shall review the conditions in the foreign state (or part of such foreign state) for which a designation is in effect under this subsection and shall determine whether the conditions for such designation under this subsection continue to be met. The Attorney General shall provide on a timely basis for the publication of notice of each such determination (including the basis for the determination, and, in the case of an affirmative determination, the period of extension of designation under subparagraph (C)) in the Federal Register.

Federal Register, publication.

"(B) TERMINATION OF DESIGNATION.—If the Attorney General determines under subparagraph (A) that a foreign state (or part of such foreign state) no longer continues to meet the conditions for designation under paragraph (1), the Attorney General shall terminate the designation by publishing notice in the Federal Register of the determination under this subparagraph (including the basis for the determination). Such termination is effective in accordance with subsection (d)(3), but shall not be effective earlier than 60 days after the date the notice is published or, if later, the expiration of the most recent previous extension under subparagraph (C).

Federal Register, publication.

"(C) EXTENSION OF DESIGNATION.—If the Attorney General does not determine under subparagraph (A) that a foreign state (or part of such foreign state) no longer meets the conditions for designation under paragraph (1), the period of designation of the foreign state is extended for an additional period of 6 months (or, in the discretion of the Attorney General, a period of 12 or 18 months).

"(4) INFORMATION CONCERNING PROTECTED STATUS AT TIME OF DESIGNATIONS.—At the time of a designation of a foreign state under this subsection, the Attorney General shall make available information respecting the temporary protected status made available to aliens who are nationals of such designated foreign state.

"(5) REVIEW.—

"(A) DESIGNATIONS.—There is no judicial review of any determination of the Attorney General with respect to the designation, or termination or extension of a designation, of a foreign state under this subsection.

"(B) APPLICATION TO INDIVIDUALS.—The Attorney General shall establish an administrative procedure for the review of the denial of benefits to aliens under this subsection. Such procedure shall not prevent an alien from asserting protection under this section in deportation proceedings if the alien demonstrates that the alien is a national of a state designated under paragraph (1).

"(c) ALIENS ELIGIBLE FOR TEMPORARY PROTECTED STATUS.—

"(1) IN GENERAL.—

"(A) NATIONALS OF DESIGNATED FOREIGN STATES.—Subject to paragraph (3), an alien, who is a national of a state designated under subsection (b)(1), meets the requirements of this paragraph only if—

"(i) the alien has been continuously physically present in the United States since the effective date of the most recent designation of that state;

"(ii) the alien has continuously resided in the United States since such date as the Attorney General may designate;

"(iii) the alien is admissible as an immigrant, except as otherwise provided under paragraph (2)(A), and is not ineligible for temporary protected status under paragraph (2)(B); and

"(iv) to the extent and in a manner which the Attorney General establishes, the alien registers for the temporary protected status under this section during a registration period of not less than 180 days.

"(B) REGISTRATION FEE.—The Attorney General may require payment of a reasonable fee as a condition of registering an alien under subparagraph (A)(iv) (including providing an alien with an 'employment authorized' endorsement or other appropriate work permit under this section). The amount of any such fee shall not exceed $50.

"(2) ELIGIBILITY STANDARDS.—

"(A) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—In the determination of an alien's admissibility for purposes of subparagraph (A)(iii) of paragraph (1)—

"(i) the provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not apply;

"(ii) except as provided in clause (iii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest; but

"(iii) the Attorney General may not waive—

"(I) paragraphs (9) and (10) (relating to criminals) of such section,

"(II) paragraph (23) of such section (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana,

"(III) paragraphs (27) and (29) of such section (relating to national security), or

"(IV) paragraph (33) of such section (relating to those who assisted in the Nazi persecution).

"(B) ALIENS INELIGIBLE.—An alien shall not be eligible for temporary protected status under this section if the Attorney General finds that—

"(i) the alien has been convicted of any felony or 2 or more misdemeanors committed in the United States, or

"(ii) the alien is described in section 243(h)(2).

"(3) WITHDRAWAL OF TEMPORARY PROTECTED STATUS.—The Attorney General shall withdraw temporary protected status granted to an alien under this section if—

"(A) the Attorney General finds that the alien was not fact eligible for such status under this section,

"(B) except as provided in paragraph (4) and permitted subsection (f)(3), the alien has not remained continuous physically present in the United States from the date t alien first was granted temporary protected status und this section, or

"(C) the alien fails, without good cause, to register wi the Attorney General annually, at the end of each 1 month period after the granting of such status, in a for and manner specified by the Attorney General.

"(4) TREATMENT OF BRIEF, CASUAL, AND INNOCENT DEPARTUR AND CERTAIN OTHER ABSENCES.—

"(A) For purposes of paragraphs (1)(A)(i) and (3)(B), alien shall not be considered to have failed to mainta continuous physical presence in the United States by virt of brief, casual, and innocent absences from the Unit States, without regard to whether such absences were a thorized by the Attorney General.

"(B) For purposes of paragraph (1)(A)(ii), an alien sh not be considered to have failed to maintain continuo residence in the United States by reason of a brief, casu and innocent absence described in subparagraph (A) or d merely to a brief temporary trip abroad required by em gency or extenuating circumstances outside the control the alien.

"(5) CONSTRUCTION.—Nothing in this section shall be c strued as authorizing an alien to apply for admission to, or to admitted to, the United States in order to apply for tempora protected status under this section.

"(6) CONFIDENTIALITY OF INFORMATION.—The Attorney G eral shall establish procedures to protect the confidentiality information provided by aliens under this section.

"(d) DOCUMENTATION.—

"(1) INITIAL ISSUANCE.—Upon the granting of temporary p tected status to an alien under this section, the Attorn General shall provide for the issuance of such temporary do mentation and authorization as may be necessary to carry o the purposes of this section.

"(2) PERIOD OF VALIDITY.—Subject to paragraph (3), such do mentation shall be valid during the initial period of designati of the foreign state (or part thereof) involved and any extensi of such period. The Attorney General may stagger the periods validity of the documentation and authorization in order provide for an orderly renewal of such documentation a authorization and for an orderly transition (under paragra (3)) upon the termination of a designation of a foreign state any part of such foreign state).

"(3) EFFECTIVE DATE OF TERMINATIONS.—If the Attorney G eral terminates the designation of a foreign state (or part such foreign state) under subsection (b)(3)(B), such terminat shall only apply to documentation and authorization issued renewed after the effective date of the publication of notice the determination under that subsection (or, at the Attorn General's option, after such period after the effective date of determination as the Attorney General determines to be app priate in order to provide for an orderly transition).

"(4) DETENTION OF THE ALIEN.—An alien provided temporary protected status under this section shall not be detained by the Attorney General on the basis of the alien's immigration status in the United States.

"(e) RELATION OF PERIOD OF TEMPORARY PROTECTED STATUS TO SUSPENSION OF DEPORTATION.—With respect to an alien granted temporary protected status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 244(a), unless the Attorney General determines that extreme hardship exists. Such period shall not cause a break in the continuity of residence of the period before and after such period for purposes of such section.

"(f) BENEFITS AND STATUS DURING PERIOD OF TEMPORARY PROTECTED STATUS.—During a period in which an alien is granted temporary protected status under this section—

"(1) the alien shall not be considered to be permanently residing in the United States under color of law;

"(2) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance;

"(3) the alien may travel abroad with the prior consent of the Attorney General; and

"(4) for purposes of adjustment of status under section 245 and change of status under section 248, the alien shall be considered as being in, and maintaining, lawful status as a nonimmigrant.

"(g) EXCLUSIVE REMEDY.—Except as otherwise specifically provided, this section shall constitute the exclusive authority of the Attorney General under law to permit aliens who are or may become otherwise deportable or have been paroled into the United States to remain in the United States temporarily because of their particular nationality or region of foreign state of nationality.

"(h) LIMITATION ON CONSIDERATION IN THE SENATE OF LEGISLATION ADJUSTING STATUS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall not be in order in the Senate to consider any bill, resolution, or amendment that—

"(A) provides for adjustment to lawful temporary or permanent resident alien status for any alien receiving temporary protected status under this section, or

"(B) has the effect of amending this subsection or limiting the application of this subsection.

"(2) SUPERMAJORITY REQUIRED.—Paragraph (1) may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate duly chosen and sworn shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under paragraph (1).

"(3) RULES.—Paragraphs (1) and (2) are enacted—

"(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the matters described in paragraph (1) and supersede other rules of the Senate only to the extent that such paragraphs are inconsistent therewith; and

"(B) with full recognition of the constitutional right of t Senate to change such rules at any time, in the sa manner as in the case of any other rule of the Sena

"(i) ANNUAL REPORT AND REVIEW.—

"(1) ANNUAL REPORT.—Not later than March 1 of each ye (beginning with 1992), the Attorney General, after consultati with the appropriate agencies of the Government, shall subr a report to the Committees on the Judiciary of the House Representatives and of the Senate on the operation of t section during the previous year. Each report shall include

"(A) a listing of the foreign states or parts thereof d ignated under this section,

"(B) the number of nationals of each such state who ha been granted temporary protected status under this secti and their immigration status before being granted su status, and

"(C) an explanation of the reasons why foreign states parts thereof were designated under subsection (b)(1) a with respect to foreign states or parts thereof previou designated, why the designation was terminated or tended under subsection (b)(3).

"(2) COMMITTEE REPORT.—No later than 180 days after t date of receipt of such a report, the Committee on the Judicia of each House of Congress shall report to its respective Hou such oversight findings and legislation as it deems app priate.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act amended by inserting after the item relating to section 244 t following new item:

"Sec. 244A. Temporary protected status.".

People's Republic of China. 8 USC 1254a note.

(c) NO AFFECT ON EXECUTIVE ORDER 12711.—Notwithstandi subsection (g) of section 244A of the Immigration and National Act (inserted by the amendment made by subsection (a)), su section shall not supercede or affect Executive Order 12711 (Ap 11, 1990, relating to policy implementation with respect to nation of the People's Republic of China).

8 USC 1254a note.

**SEC. 303. SPECIAL TEMPORARY PROTECTED STATUS FOR SALVADORA**

(a) DESIGNATION.—

(1) IN GENERAL.—El Salvador is hereby designated unc section 244A(b) of the Immigration and Nationality Act, subj to the provisions of this section.

(2) PERIOD OF DESIGNATION.—Such designation shall ta effect on the date of the enactment of this section and sh remain in effect until the end of the 18-month period beginni January 1, 1991.

(b) ALIENS ELIGIBLE.—

(1) IN GENERAL.—In applying section 244A of the Immigrati and Nationality Act pursuant to the designation under t section, subject to section 244A(c)(3) of such Act, an alien wh a national of El Salvador meets the requirements of secti 244A(c)(1) of such Act only if—

(A) the alien has been continuously physically present the United States since September 19, 1990;

(B) the alien is admissible as an immigrant, except otherwise provided under section 244A(c)(2)(A) of such A

and is not ineligible for temporary protected status under section 244A(c)(2)(B) of such Act; and

(C) in a manner which the Attorney General shall establish, the alien registers for temporary protected status under this section during the registration period beginning January 1, 1991, and ending June 30, 1991.

(2) REGISTRATION FEE.—The Attorney General shall require payment of a reasonable fee as a condition of registering an alien under paragraph (1)(C) (including providing an alien with an "employment authorized" endorsement or other appropriate work permit under this section). The amount of the fee shall be sufficient to cover the costs of administration of this section. Notwithstanding section 3302 of title 31, United States Code, all such registration fees collected shall be credited to the appropriation to be used in carrying out this section.

(c) APPLICATION OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—Except as provided in this subsection, the provisions of section 244A of the Immigration and Nationality Act (including subsection (h) thereof) shall apply to El Salvador (and aliens provided temporary protected status) under this section in the same manner as they apply to a foreign state designated (and aliens provided temporary protected status) under such section.

(2) PROVISIONS NOT APPLICABLE.—Subsections (b)(1), (b)(2), (b)(3), (c)(1), (c)(4), (d)(3), and (i) of such section 244A shall not apply under this section.

(3) 6-MONTH PERIOD OF REGISTRATION AND WORK AUTHORIZATION.—Notwithstanding section 244A(a)(2) of the Immigration and Nationality Act, the work authorization provided under this section shall be effective for periods of 6 months. In applying section 244A(c)(3)(C) of such Act under this section, "semiannually, at the end of each 6-month period" shall be substituted for "annually, at the end of each 12-month period" and, notwithstanding section 244A(d)(2) of such Act, the period of validity of documentation under this section shall be 6 months.

(4) REENTRY PERMITTED AFTER DEPARTURE FOR EMERGENCY CIRCUMSTANCES.—In applying section 244A(f)(3) of the Immigration and Nationality Act under this section, the Attorney General shall provide for advance parole in the case of an alien provided special temporary protected status under this section if the alien establishes to the satisfaction of the Attorney General that emergency and extenuating circumstances beyond the control of the alien requires the alien to depart for a brief, temporary trip abroad.

(d) ENFORCEMENT OF REQUIREMENT TO DEPART AT TIME OF TERMINATION OF DESIGNATION.—

(1) SHOW CAUSE ORDER AT TIME OF FINAL REGISTRATION.—At the registration occurring under this section closest to the date of termination of the designation of El Salvador under subsection (a), the Immigration and Naturalization Service shall serve on the alien granted temporary protected status an order to show cause that establishes a date for deportation proceedings which is after the date of such termination of designation. If El Salvador is subsequently designated under section 244A(b) of the Immigration and Nationality Act, the Service shall cancel such orders.

(2) SANCTION FOR FAILURE TO APPEAR.—If an alien is provid an order to show cause under paragraph (1) and fails to appe at such proceedings, except for exceptional circumstances, t alien may be deported in absentia under section 242B of t Immigration and Nationality Act (inserted by section 545(a) this Act) and certain discretionary forms of relief are no long available to the alien pursuant to such section.

# TITLE IV—NATURALIZATION

## SEC. 401. ADMINISTRATIVE NATURALIZATION.

(a) NATURALIZATION AUTHORITY.—Section 310 (8 U.S.C. 1421) amended to read as follows:

"NATURALIZATION AUTHORITY

"SEC. 310. (a) AUTHORITY IN ATTORNEY GENERAL.—The s authority to naturalize persons as citizens of the United States conferred upon the Attorney General.

"(b) ADMINISTRATION OF OATHS.—An applicant for naturalizati may choose to have the oath of allegiance under section 337 administered by the Attorney General or by any District Court the United States for any State or by any court of record in a State having a seal, a clerk, and jurisdiction in actions in law equity, or law and equity, in which the amount in controversy unlimited. The jurisdiction of all courts in this subsection specif to administer the oath of allegiance shall extend only to pers resident within the respective jurisdiction of such courts.

"(c) JUDICIAL REVIEW.—A person whose application for naturali tion under this title is denied, after a hearing before an immigrat officer under section 336(a), may seek review of such denial bef the United States district court for the district in which such per resides in accordance with chapter 7 of title 5, United States Co Such review shall be de novo, and the court shall make its o findings of fact and conclusions of law and shall, at the request the petitioner, conduct a hearing de novo on the application.

"(d) SOLE PROCEDURE.—A person may only be naturalized a citizen of the United States in the manner and under the conditi prescribed in this title and not otherwise.".

(b) FILING OF APPLICATIONS.—Section 334(a) (8 U.S.C. 1445(a) amended by adding at the end the following new sentence: "In case of an applicant subject to a requirement of continuous r dence under section 316(a) or 319(a), the application for natural tion may be filed up to 3 months before the date the applicant wo first otherwise meet such continuous residence requirement.".

(c) NOTIFICATION.—Section 335(b) (8 U.S.C. 1446(b)) is amended adding at the end the following new sentence: "Any such emplo shall, at the examination, inform the petitioner of the remed available to the petitioner under section 336.".

## SEC. 402. SUBSTITUTING 3 MONTHS RESIDENCE IN INS DISTRICT STATE FOR 6 MONTHS RESIDENCE IN A STATE.

Section 316(a)(1) (8 U.S.C. 1427(a)(1)) is amended by striking "; who has resided within the State in which the petitioner filed petition for at least six months" and inserting "and who has resi within the State or within the district of the Service in the Uni

States in which the applicant filed the application for at least three months".

**SEC. 403. WAIVER OF ENGLISH LANGUAGE REQUIREMENT FOR NATURALIZATION.**

Section 312(1) (8 U.S.C. 1423(1)) is amended by striking "is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence" and inserting "either (A) is over 50 years of age and has been living in the United States for periods totaling at least 20 years subsequent to a lawful admission for permanent residence, or (B) is over 55 years of age and has been living in the United States for periods totaling at least 15 years subsequent to a lawful admission for permanent residence".

**SEC. 404. TREATMENT OF SERVICE IN ARMED FORCES OF A FOREIGN COUNTRY.**

Section 315 (8 U.S.C. 1425) is amended— 8 USC 1426.

(1) in subsection (a), by inserting "but subject to subsection (c)" after "section 405(b)", and

(2) by adding at the end the following new subsection:

"(c) An alien shall not be ineligible for citizenship under this section or otherwise because of an exemption from training or service in the Armed Forces of the United States pursuant to the exercise of rights under a treaty, if before the time of the exercise of such rights the alien served in the Armed Forces of a foreign country of which the alien was a national.".

**SEC. 405. NATURALIZATION OF NATIVES OF THE PHILIPPINES THROUGH CERTAIN ACTIVE-DUTY SERVICE DURING WORLD WAR II.** 8 USC 1440 note.

(a) WAIVER OF CERTAIN REQUIREMENTS.—(1) Clauses (1) and (2) of section 329(a) of the Immigration and Nationality Act (8 U.S.C. 1440(a)) shall not apply to the naturalization of any person—

(A) who was born in the Philippines and who was residing in the Philippines before the service described in subparagraph (B);

(B) who served honorably—

(i) in an active-duty status under the command of the United States Armed Forces in the Far East, or

(ii) within the Philippine Army, the Philippine Scouts, or recognized guerrilla units,

at any time during the period beginning September 1, 1939, and ending December 31, 1946;

(C) who is otherwise eligible for naturalization under section 329 of such Act; and

(D) who applies for naturalization during the 2-year period beginning on the date of the enactment of this Act.

(2) Subject to subsection (c), in applying section 329 of the Immigration and Nationality Act, service described in paragraph (1)(B) is considered to be honorable service in an active-duty status in the military, air, or naval forces of the United States.

(b) WAIVER OF RESIDENCY REQUIREMENT.—Section 340(d) of the Immigration and Nationality Act (8 U.S.C. 1451(d)) shall not apply to a person who is naturalized pursuant to subsection (a).

(c) STATUTORY CONSTRUCTION.—The enactment of this section shall not be construed as affecting the rights, privileges, or benefits of a person described in subsection (a)(1) under any provision of law

(other than the Immigration and Nationality Act) by reason of th service of such person or the service of any other person under th command of the United States Armed Forces.

SEC. 406. PUBLIC EDUCATION REGARDING NATURALIZATION BENEFIT

Section 332 (8 U.S.C. 1443) is amended by adding at the end th following new subsection:

"(h) In order to promote the opportunities and responsibilities o United States citizenship, the Attorney General shall broadl distribute information concerning the benefits which persons ma receive under this title and the requirements to obtain such ben fits. In carrying out this subsection, the Attorney General shall see the assistance of appropriate community groups, private voluntar agencies, and other relevant organizations. There are authorized t be appropriated (for each fiscal year beginning with fiscal year 199 such sums as may be necessary to carry out this subsection.

Appropriation authorization.

SEC. 407. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS TO SECTION 310 REVISION.—(1) Th item in the table of contents relating to section 310 is amended t read as follows:

"Sec. 310. Naturalization authority.".

(2) Section 101(a)(36) (8 U.S.C. 1101(a)(36)) is amended by strikin "(except as used in section 310(a) of title III)".

(b) CONFORMING AMENDMENTS TO CHANGE IN RESIDENCE REQUIR MENT.—(1) Section 319 (8 U.S.C. 1430) is amended—

(A) in subsection (a), by striking "has resided within the Sta in which he filed his petition for at least six months" ar inserting "has resided within the State or the district of th Service in the United States in which the applicant filed h application for at least three months",

(B) in subsections (b) and (d), by striking "within the jurisdi tion of the naturalization court" and inserting "within a Sta or a district of the Service in the United States", and

(C) in subsection (c), is amended by striking "within th jurisdiction of the court" and inserting "district of the Servi in the United States".

(2) Section 322(c) (8 U.S.C. 1433(c)) is amended by striking "with the jurisdiction of the naturalization court" and inserting "within State or a district of the Service in the United States".

(3) Section 324(a)(1) (8 U.S.C. 1435(a)(1)) is amended by insertin "or district of the Service in the United States" after "State

(4) Section 328 (8 U.S.C. 1439) is amended—

(A) in subsection (a)—

(i) by inserting "or district of the Service in the Unit States" after "State", and

(ii) by striking "for at least six months" and insertin "for at least three months";

(B) in subsection (b)(1), by striking "within the jurisdiction the court" and inserting "within a State or district of th Service in the United States"; and

(C) in subsection (c), by inserting "or district of the Service the United States" after "State".

(5) Section 329(b) (8 U.S.C. 1440(b)) is amended—

(A) in paragraph (2)—

(i) by inserting "or district of the Service in the Unit States" after "State", and

(ii) by inserting "and" at the end of paragraph (2);
(B) by striking paragraph (3); and
(C) by redesignating paragraph (4) as paragraph (3).

c) SUBSTITUTION OF APPLICATION FOR NATURALIZATION FOR PETI-N FOR NATURALIZATION.—The text of the following provisions is ended by striking "a petition", "petition", "petitions", "a peti-ner", "petitioner", "petitioner's", "petitioning", and "petitioned" ch place it appears and inserting "an application", "application", pplications" or "applies" (as the case may be), "an applicant", pplicant", "applicant's", "applying", and "applied", respectively:
(1) Section 313(c) (8 U.S.C. 1424(c)).
(2) Section 316 (8 U.S.C. 1427).
(3) Section 317 (8 U.S.C. 1428).
(4) Section 318 (8 U.S.C. 1429).
(5) Sections 319 (a) and (c) (8 U.S.C. 1430 (a), (c)).
(6) Section 322 (8 U.S.C. 1433).
(7) Section 324 (8 U.S.C. 324). 8 USC 1435.
(8) Section 325 (8 U.S.C. 1436).
(9) Section 326 (8 U.S.C. 1437).
(10) Section 328 (8 U.S.C. 1439).
(11) Section 329 (8 U.S.C. 1440), other than subsection (d).
(12) Section 330 (8 U.S.C. 1441).
(13) Section 331 (8 U.S.C. 1442), other than subsection (d).
(14) Section 333(a) (8 U.S.C. 1444(a)).
(15) Section 334 (8 U.S.C. 1445).
(16) Section 335 (8 U.S.C. 1446).
(17) Section 336 (8 U.S.C. 1447).
(18) Section 337 (8 U.S.C. 1448).
(19) Section 338 (8 U.S.C. 1449).
(20) Section 344 (8 U.S.C. 1455).
(21) Section 1429 of title 18, United States Code.

d) SUBSTITUTING APPROPRIATE ADMINISTRATIVE AUTHORITY FOR TURALIZATION COURT.—(1) Section 316 (8 U.S.C. 1427) is ended—
(A) in subsection (b), by striking "the court" each place it appears and inserting "the Attorney General",
(B) in subsection (b), by striking "date of final hearing" and inserting "date of any hearing under section 336(a)",
(C) in subsection (e), by striking "the court" and inserting "the Attorney General",
(D) in subsection (g)(1), by striking "within the jurisdiction of the court" and inserting "within a particular State or district of the Service in the United States", and
(E) in subsection (g)(2), by amending the first sentence to read as follows: "An applicant for naturalization under this subsection may be administered the oath of allegiance under section 337(a) by any district court of the United States, without regard to the residence of the applicant.".

2) The second sentence of section 317 (8 U.S.C. 1428) is amended striking "and the naturalization court".

3) The third sentence of section 318 (8 U.S.C. 1429) is amended—
(A) by striking "finally heard by a naturalization court" and inserting "considered by the Attorney General", and
(B) by striking "upon the naturalization court" and inserting "upon the Attorney General" .

4) Section 319 (8 U.S.C. 1430) is amended—

(A) in subsection (b)(3), by striking "before the naturalizat court" and inserting "before the Attorney General", and

(B) in subsection (c)(5), by striking "naturalization court" a inserting "Attorney General".

(5) Section 322(c)(2)(C) (8 U.S.C. 1433(c)(2)(C)) is amended by str ing "naturalization court" the first place it appears and insert "Attorney General".

(6) Section 324 (8 U.S.C. 1435) is amended—

(A) in subsection (a)—

(i) by inserting "and" at the end of paragraph (1),

(ii) by striking the semicolon at the end of paragraph and inserting a period, and

(iii) by striking paragraphs (3) and (4);

(B) in subsection (b), by striking "naturalization court" a inserting "Attorney General"; and

(C) in subsection (c)—

(i) in paragraph (2), by striking "the judge or clerk o naturalization court" and inserting "the Attorney Gene or the judge or clerk of a court described in section 310( and

(ii) in paragraph (3), by striking "or naturalization cou each place it appears and inserting "court, or the Attor General".

(7) Section 327(a) (8 U.S.C. 1438(a)) is amended—

(A) by striking "any naturalization court specified in sect 310(a) of this title" and inserting "the Attorney General before a court described in section 310(b)"; and

(B) by inserting "and by the Attorney General to the S retary of State" after "Department of Justice".

(8) Section 328(c) (8 U.S.C. 1439(c)) is amended by striking " final hearing" and inserting "any hearing".

(9) Section 331(b) (8 U.S.C. 1442(b)) is amended by striking "cal for a hearing" and all that follows through "to be continued" a inserting "considered or heard except after 90 days' notice to Attorney General to be considered at the examination or heari and the Attorney General's objection to such consideration sh cause the application to be continued".

(10) Section 332(a) (8 U.S.C. 1443(a)) is amended—

(A) by striking "for the purpose" and all that follows throu "naturalization courts" in the first sentence, and

(B) by striking the second sentence.

(11) Section 333(a) (8 U.S.C. 1444(a)) is amended by striking "cl of the court" and inserting "Attorney General".

(12) Section 334 (8 U.S.C. 1445) is amended—

(A) by amending the heading to read as follows:

"APPLICATION FOR NATURALIZATION; DECLARATION OF INTENTION"

(B) in subsection (a)—

(i) by striking "in the office of the clerk of a natural tion court" and inserting "with the Attorney Gener

(ii) by striking "upon the hearing of such petition" a inserting "under this title";

(C) in subsection (b)—

(i) by striking "(1)",

(ii) by striking "and (2)" and all that follows throu "Attorney General", and

(iii) by striking "petition for";

(D) by striking the first sentence of subsection (f) and inserting the following: "An alien over 18 years of age who is residing in the United States pursuant to a lawful admission for permanent residence may file with the Attorney General a declaration of intention to become a citizen of the United States. Such a declaration shall be filed in duplicate and in a form prescribed by the Attorney General and shall be accompanied by an application prescribed and approved by the Attorney General.";

(E) by redesignating subsection (f) as subsection (g); and

(F) by striking subsections (c) through (e) and inserting the following:

(c) Hearings under section 336(a) on applications for naturalization shall be held at regular intervals specified by the Attorney neral.

(d) Except as provided in subsection (e), an application for naturization shall be filed in the office of the Attorney General.

(e) A person may file an application for naturalization other than the office of the Attorney General, and an oath of allegiance ninistered other than in a public ceremony before the Attorney neral or a court, if the Attorney General determines that the son has an illness or other disability which—

"(1) is of a permanent nature and is sufficiently serious to prevent the person's personal appearance, or

"(2) is of a nature which so incapacitates the person as to prevent him from personally appearing.".

(3) Section 335 (8 U.S.C. 1146) is amended— 8 USC 1446.

(A) by amending the heading to read as follows:

"INVESTIGATION OF APPLICANTS; EXAMINATION OF APPLICATIONS";

(B) in subsection (a), by striking "At any time" and all that follows through "336(a)" and inserting "Before a person may be naturalized";

(C) in subsection (b)—

(i) by striking "preliminary" each place it appears,

(ii) in the first sentence, by striking "to any naturalization court" and all that follows through "to such court",

(iii) by striking "any court exercising naturalization jurisdiction as specified in section 310 of this title" in the second sentence and inserting "any District Court of the United States", and

(iv) by striking "final hearing conducted by a naturalization court designated in section 310 of this title" in the third sentence and inserting "hearing conducted by an immigration officer under section 336(a)";

(D) in subsection (c)—

(i) by striking "preliminary" each place it appears, and

(ii) by striking "recommendation" and inserting "determination"; and

(E) by amending subsections (d) through (f) to read as follows:

(d) The employee designated to conduct any such examination ll make a determination as to whether the application should be nted or denied, with reasons therefor.

(e) After an application for naturalization has been filed with the orney General, the applicant shall not be permitted to withdraw application, except with the consent of the Attorney General. In

cases where the Attorney General does not consent to the wit drawal of the application, the application shall be determined on merits and a final order determination made accordingly. In cas where the applicant fails to prosecute his application, the appli tion shall be decided on the merits unless the Attorney Gene dismisses it for lack of prosecution.

"(f) An applicant for naturalization who moves from the district the Service in the United States in which the application is pendi may, at any time thereafter, request the Service to transfer t application to any district of the Service in the United States whi may act on the application. The transfer shall not be made witho the consent of the Attorney General. In the case of such a transf the proceedings on the application shall continue as though t application had originally been filed in the district of the Service which the application is transferred.".

(14) Section 336 (8 U.S.C. 1447) is amended—

(A) by amending the heading to read as follows:

"HEARINGS ON DENIALS OF APPLICATIONS FOR NATURALIZATION";

(B) by amending subsections (a) and (b) to read as follo

"(a) If, after an examination under section 335, an application naturalization is denied, the applicant may request a hearing bef an immigration officer.

"(b) If there is a failure to make a determination under section 3 before the end of the 120-day period after the date on which t examination is conducted under such section, the applicant m apply to the United States district court for the district in which t applicant resides for a hearing on the matter. Such court h jurisdiction over the matter and may either determine the matter remand the matter, with appropriate instructions, to the Service determine the matter.";

Courts.

(C) in subsection (c), by striking "court" and inserti "immigration officer";

(D) in subsection (d)—

(i) by striking "clerk of the court" and all that follo through "naturalization" and inserting "immigration o cer shall, if the applicant requests it at the time of filing t request for the hearing",

(ii) by striking "final" each place it appears, and

(iii) by adding at the end the following: "Such subpe may be enforced in the same manner as subpenas un section 335(b) may be enforced."; and

(E) in subsection (e)—

(i) by striking "naturalization of any person," and ins ing "administration by a court of the oath of allegia under section 337(a)", and

(ii) by striking "included in the petition for naturalizat of such persons" and inserting "included in an appropri petition to the court".

(15) Section 337 (8 U.S.C. 1448) is amended—

(A) in subsection (a)—

(i) in the first sentence, by striking "in open court" a inserting "in a public ceremony before the Attorney G eral or a court with jurisdiction under section 310(

(ii) in the second and fourth sentences, by striking "naturalization court" each place it appears and inserting "Attorney General", and

(iii) in the fourth sentence, by striking "the court" and inserting "the Attorney General";

(B) in subsection (b)—

(i) by striking "in open court in the court in which the petition for naturalization is made" and inserting "in the same public ceremony in which the oath of allegiance is administered", and

(ii) by striking "in the court";

(C) in subsection (c)—

(i) by striking "being in open court" and inserting "attending a public ceremony", and

(ii) by striking "a judge of the court at such place as may be designated by the court" and inserting "at such place as the Attorney General may designate under section 334(e)"; and

(D) by adding at the end the following new subsection:

"(d) The Attorney General shall prescribe rules and procedures to sure that the ceremonies conducted by the Attorney General for e administration of oaths of allegiance under this section are blic, conducted frequently and at regular intervals, and are in eping with the dignity of the occasion.". Regulations.

(16) Section 338 (8 U.S.C. 1449) is amended—

(A) by striking "by a naturalization court",

(B) by striking "the clerk of such court" and inserting "the Attorney General",

(C) by striking "title, venue, and location of the naturalization court" and inserting "location of the District office of the Service in which the application was filed and the title, authority, and location of the official or court administering the oath of allegiance",

(D) by striking "the court" and inserting "the Attorney General", and

(E) by striking "of the clerk of the naturalization court; and seal of the court" and inserting "of an immigration officer; and the seal of the Department of Justice".

(17) Section 339 (8 U.S.C. 1450) is amended to read as follows:

FUNCTIONS AND DUTIES OF CLERKS AND RECORDS OF DECLARATIONS OF INTENTION AND APPLICATIONS FOR NATURALIZATION Courts.

"SEC. 339. (a) The clerk of each court that administers oaths of egiance under section 337 shall—

"(1) issue to each person to whom such an oath is administered a document evidencing that such an oath was administered,

"(2) forward to the Attorney General information concerning each person to whom such an oath is administered by the court, within 30 days after the close of the month in which the oath was administered,

"(3) make and keep on file evidence for each such document issued, and

"(4) forward to the Attorney General certified copies of such other proceedings and orders instituted in or issued out of the

court affecting or relating to the naturalization of persons may be required from time to time by the Attorney Gener

"(b) Each district office of the Service in the United States sh maintain, in chronological order, indexed, and consecutively nu bered, as part of its permanent records, all declarations of intenti and applications for naturalization filed with the office.".

(18) Section 340 (8 U.S.C. 1451) is amended—

(A) in the first sentence of subsection (a), by striking "in a court specified in subsection (a) of section 310 of this title" a inserting "in any District Court of the United States",

(B) by amending the second sentence of subsection (g) to re as follows: "The clerk of the court shall transmit a copy of su order and judgment to the Attorney General.",

(C) by striking the third sentence of subsection (g), and

(D) in subsection (i), by striking "any naturalization cou and all that follows through "to take such action" and inserti the following: "the Attorney General to correct, reopen, alt modify, or vacate an order naturalizing the person".

(19) Section 344 (8 U.S.C. 1455) is amended—

(A) in subsection (a)—

(i) by striking "The clerk of the court" and inserting "T Attorney General",

(ii) in paragraph (1), by striking "final", and

(iii) in paragraph (1), by striking "the naturalizati court" and inserting "the Attorney General";

(B) by striking subsections (c), (d), (e), and (f);

(C) in subsection (g)—

(i) by striking ", and all fees paid over to the Attorn General by clerks of courts under the provisions of tl title,", and

(ii) by striking "or by the clerks of the courts";

(D) in subsection (h)—

(i) by striking "no clerk of a United States court sha and inserting "the Attorney General may not",

(ii) by striking ", and no clerk of any State court" and that follows through "charged or collected", and

(iii) by striking the second sentence;

(E) in subsection (i), by striking "clerk of court", "from t clerk,", "such clerk", and "by the clerk" and inserting "Att ney General", "from the Attorney General,", "the Attorn General", and "by the Attorney General", respectively; a

(F) by redesignating subsections (g), (h), and (i) as subsectio (c), (d), and (e), respectively.

Repeal. (20) Section 348 (8 U.S.C. 1459) is repealed.

(e) STRIKING MISCELLANEOUS MATERIAL.—(1) Section 316 (8 U.S 1427) is amended by striking subsection (f) and by redesignati subsection (g) as subsection (f).

(2) Section 331 (8 U.S.C. 1442) is amended by striking the seco sentence of subsection (d).

(f) CORRECTIONS OF TABLE OF CONTENTS.—(1) The items in the tal of contents relating to sections 334 through 336 are amended to re as follows:

"Sec. 334. Application for naturalization; declaration of intention.
"Sec. 335. Investigation of applicants; examination of applications.
"Sec. 336. Hearings on denials of applications for naturalization.".

(2) The item in the table of contents relating to section 339 amended to read as follows:

ec. 339. Functions and duties of clerks and records of declarations of intention and applications for naturalization.".

(3) The item in the table of contents relating to section 348 is pealed.

C. 408. EFFECTIVE DATES AND SAVINGS PROVISIONS. 8 USC 1421 note.

(a) EFFECTIVE DATE.—

(1) NO NEW COURT PETITIONS AFTER EFFECTIVE DATE.—No court shall have jurisdiction, under section 310(a) of the Immigration and Nationality Act, to naturalize a person unless a petition for naturalization with respect to that person has been filed with the court before October 1, 1991.

(2) TREATMENT OF CURRENT COURT PETITIONS.—

(A) CONTINUATION OF CURRENT RULES.—Except as provided in subparagraph (B), any petition for naturalization which may be pending in a court on October 1, 1991, shall be heard and determined in accordance with the requirements of law in effect when the petition was filed.

(B) PERMITTING WITHDRAWAL AND CONSIDERATION OF APPLICATION UNDER NEW RULES.—In the case of any petition for naturalization which may be pending in any court on the date of the enactment of this Act, the petitioner may withdraw such petition and have the petitioner's application for naturalization considered under the amendments made by this title, but only if the petition is withdrawn not later than 3 months after the effective date.

(3) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this title are effective as of the date of the enactment of this Act.

(b) INTERIM, FINAL REGULATIONS.—The Attorney General shall escribe regulations (on an interim, final basis or otherwise) to plement the amendments made by this title on a timely basis.

(c) CONTINUING DUTIES.—The amendments to section 339 of the migration and Nationality Act (relating to functions and duties of erks) shall not apply to functions and duties respecting petitions ed before October 1, 1991.

(d) GENERAL SAVINGS PROVISIONS.—(1) Nothing contained in this le, unless otherwise specifically provided, shall be construed to fect the validity of any declaration of intention, petition for natulization, certificate of naturalization, certification of citizenship, other document or proceeding which is valid as of the effective te; or to affect any prosecution, suit, action, or proceedings, civil criminal, brought, or any status, condition, right in process of quisition, act, thing, liability, obligation, or matter, civil or crimil, done or existing, as of the effective date.

(2) As to all such prosecutions, suits, actions, proceedings, statutes, nditions, rights, acts, things, liabilities, obligations, or matters, the ovisions of law repealed by this title are, unless otherwise specifilly provided, hereby continued in force and effect.

(e) TREATMENT OF SERVICE IN ARMED FORCES OF FOREIGN COUNRY.—The amendments made by section 404 (relating to treatment service in armed forces of a foreign country) shall take effect on e date of the enactment of this Act and shall apply to exemptions om training or service obtained before, on, or after such date.

(f) FILIPINO WAR VETERANS.—Section 405 (relating to naturalizaon of natives of the Philippines through active-duty service under nited States command during World War II) shall become effective

on May 1, 1991, without regard to whether regulations to implement such section have been issued by such date.

# TITLE V—ENFORCEMENT

## Subtitle A—Criminal Aliens

### SEC. 501. AGGRAVATED FELONY DEFINITION.

(a) IN GENERAL.—Paragraph (43) of section 101(a) (8 U.S.C. 1101(a)(43)) is amended—

(1) by aligning its left margin with the left margin of paragraph (42),

(2) by inserting "any illicit trafficking in any controlled substance (as defined in section 102 of the Controlled Substances Act), including" after "murder,",

(3) by inserting after "such title," the following: "any offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments), or any crime of violence (as defined in section 16 of title 18, United States Code, not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years,",

(4) by striking "committed within the United States",

(5) by adding at the end the following: "Such term applies to offenses described in the previous sentence whether in violation of Federal or State law.", and

(6) by inserting before the period of the sentence added by paragraph (5) the following: "and also applies to offenses described in the previous sentence in violation of foreign law for which the term of imprisonment was completed within the previous 15 years".

8 USC 1101 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to offenses committed on or after the date of the enactment of this Act, except that the amendments made by paragraphs (2) and (5) of subsection (a) shall be effective as if included in the enactment of section 7342 of the Anti-Drug Abuse Act of 1988.

### SEC. 502. SHORTENING PERIOD TO REQUEST JUDICIAL REVIEW.

8 USC 1105a.

(a) IN GENERAL.—Section 106(a)(1) (8 U.S.C. 1152a(a)(1)) is amended by striking "60 days" and inserting "30 days".

8 USC 1105a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to final deportation orders issued on or after January 1, 1991.

### SEC. 503. ENHANCING ENFORCEMENT AUTHORITY OF INS OFFICERS.

(a) BROADENING AUTHORITY.—Section 287(a) (8 U.S.C. 1357(a)) is amended—

(1) by striking "and" at the end of paragraph (3), and

(2) in paragraph (4), by striking "United States" the second place it appears and all that follows and inserting the following: "United States, and

"(5) to make arrests—

"(A) for any offense against the United States, if the offense is committed in the officer's or employee's presence, or

"(B) for any felony cognizable under the laws of the United States, if the officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony,

if the officer or employee is performing duties relating to the enforcement of the immigration laws at the time of the arrest and if there is a likelihood of the person escaping before a warrant can be obtained for his arrest.

Under regulations prescribed by the Attorney General, an officer or employee of the Service may carry a firearm and may execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States. The authority to make arrests under paragraph (5)(B) shall only be effective on and after the date on which the Attorney General publishes final regulations which (i) prescribe the categories of officers and employees of the Service who may use force (including deadly force) and the circumstances under which such force may be used, (ii) establish standards with respect to enforcement activities of the Service, (iii) require that any officer or employee of the Service is not authorized to make arrests under paragraph (5)(B) unless the officer or employee has received certification as having completed a training program which covers such arrests and standards described in clause (ii), and (iv) establish an expedited, internal review process for violations of such standards, which process is consistent with standard agency procedure regarding confidentiality of matters related to internal investigations.". Regulations.

(b) REQUIRING FINGERPRINTING AND PHOTOGRAPHING OF CERTAIN ALIENS.—(1) Section 287 is further amended by adding at the end the following new subsection: 8 USC 1357.

"(f)(1) Under regulations of the Attorney General, the Commissioner shall provide for the fingerprinting and photographing of each alien 14 years of age or older against whom a proceeding is commenced under section 242.

"(2) Such fingerprints and photographs shall be made available to Federal, State, and local law enforcement agencies, upon request.".

(2) Section 264(b) (8 U.S.C. 1304(b)) is amended by inserting "(1) pursuant to section 287(f)(2), and (2)" after "only".

**SEC. 504. CUSTODY PENDING DETERMINATION OF DEPORTABILITY AND EXCLUDABILITY.**

(a) DEPORTABILITY.—Section 242(a)(2) (8 U.S.C. 1252(a)(2)) is amended—

(1) in the first sentence, by striking "upon completion of the alien's sentence for such conviction" and inserting "upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense)",

(2) in the second sentence, by inserting "but subject to subparagraph (B)" after "Notwithstanding subsection (a)",

(3) in the second sentence, by striking "subsection (a)" and inserting "paragraph (1) or subsections (c) and (d)",

(4) by inserting "(A)" after "(2)", and

(5) by adding at the end the following new subparagraph:

"(B) The Attorney General shall release from custody an alien who is lawfully admitted for permanent residence on bond or such other conditions as the Attorney General may prescribe if the

Attorney General determines that the alien is not a threat to the community and that the alien is likely to appear before any scheduled hearings.".

(b) EXCLUDABILITY.—Section 236 (8 U.S.C. 1226) is amended by adding at the end the following new subsection:

"(e)(1) Pending a determination of excludability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction.

"(2) Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody unless the Attorney General determines that the alien may not be deported because the condition described in section 243(g) exists.

"(3) If the determination described in paragraph (2) has been made, the Attorney General may release such alien only after—

"(A) a procedure for review of each request for relief under this subsection has been established,

"(B) such procedure includes consideration of the severity of the felony committed by the alien, and

"(C) the review concludes that the alien will not pose a danger to the safety of other persons or to property.".

8 USC 1252 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 505. ELIMINATION OF JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION.

(a) IN GENERAL.—Section 241(b) (8 U.S.C. 1251(b)) is amended—

(1) in the first sentence—

(A) by striking "(1)", and

(B) by striking ", or (2)" and all that follows up to the period at the end; and

(2) in the second sentence, by inserting "or who has been convicted of an aggravated felony" after "subsection (a)(11) of this section".

8 USC 1251 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to convictions entered before, on, or after such date.

SEC. 506. CLARIFICATION RESPECTING DISCRETIONARY AUTHORITY IN DEPORTATION PROCEEDINGS FOR INCARCERATED ALIENS.

(a) IN GENERAL.—Section 242A(d)(2) (8 U.S.C. 1252a(d)(2)) is amended by striking ", unless" and all that follows up to the period at the end.

8 USC 1252a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 507. REQUIRING COORDINATION PLAN WITH INS AS A CONDITION FOR RECEIPT OF DRUG CONTROL AND SYSTEM IMPROVEMENT GRANTS UNDER THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) IN GENERAL.—Section 503(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

Intergovernmental relations. Records.

"(11) An assurance that the State has established a plan under which the State will provide without fee to the Immigration and Naturalization Service, within 30 days of the date of their conviction, the certified records of conviction of aliens who

have been convicted of violating the criminal laws of the State.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to grants for fiscal years beginning with fiscal year 1991. 42 USC 3753.

SEC. 508. DEPORTATION FOR ATTEMPTED VIOLATIONS OF CONTROLLED SUBSTANCES LAWS.

(a) IN GENERAL.—Section 241(a)(11) (8 U.S.C. 1251(a)(11)) is amended by inserting "or attempt" after "conspiracy".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to convictions occurring on or after the date of the enactment of this Act. 8 USC 1251 note.

SEC. 509. GOOD MORAL CHARACTER DEFINITION.

(a) IN GENERAL.—Section 101(f)(8) (8 U.S.C. 1101(f)(8)) is amended by striking "the crime of murder" and inserting "an aggravated felony (as defined in subsection (a)(43))".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to convictions occurring on or after such date. 8 USC 1101 note.

SEC. 510. REPORT ON CRIMINAL ALIENS. 8 USC 1251 note.

(a) IN GENERAL.—The Attorney General shall submit to the appropriate Committees of the Congress, by not later than December 1, 1991, a report that describes the efforts of the Immigration and Naturalization Service to identify, apprehend, detain, and remove from the United States aliens who have been convicted of crimes in the United States.

(b) CRIMINAL ALIEN CENSUS.—Such report shall include a statement of—

(1) the number of aliens in the United States who have been convicted of a criminal offense in the United States, and, of such number, the number of such aliens who are not lawfully admitted to the United States;

(2) the number of aliens lawfully admitted to the United States who have been convicted of such an offense and, based on such conviction, are subject to deportation from the United States;

(3) the number of aliens in the United States who are incarcerated in a penal institution in the United States, and, of such number, the number of such aliens who are not lawfully admitted to the United States;

(4)(A) the number of aliens whose deportation hearings have been conducted pursuant to section 242A(a) of the Immigration and Nationality Act, and (B) the percentage that such number represents of the total number of deportable aliens with respect to whom a hearing under such section could have been conducted since November 18, 1988; and

(5) the number of aliens in the United States who have reentered the United States after having been convicted of a criminal offense in the United States.

Within each of the numbers of aliens specified under this subsection who have been convicted of criminal offenses, the Attorney General shall distinguish between criminal offenses that are aggravated felonies (as defined in section 101(a)(43) of the Immigration and Nationality Act, as amended by this Act) and for other criminal offenses.

(c) CRIMINAL ALIEN REMOVAL PLAN.—The Attorney General shall include in the report a plan for the prompt removal from the United States of criminal aliens who are subject to exclusion or deportation. Such plan shall also include a statement of additional funds that would be required to provide for the prompt removal from the United States of—

(1)(A) aliens who are not lawfully admitted to the United States and who, as of the date of the enactment of this Act, have committed any criminal offense in the United States, and (B) aliens who are lawfully admitted to the United States and who, as of such date, have committed a criminal offense in the United States the commission of which makes the alien subject to deportation; and

(2)(A) aliens who are not lawfully admitted to the United States and who, in the future, commit a criminal offense in the United States, and (B) aliens who are lawfully admitted to the United States and who, in the future, commit a criminal offense in the United States the commission of which makes the alien subject to deportation.

Such plan shall also include a method for identifying and preventing the unlawful reentry of aliens who have been been convicted of criminal offenses in the United States and removed from the United States.

SEC. 511. LIMITATION ON WAIVER OF EXCLUSION FOR RETURNING PERMANENT RESIDENTS CONVICTED OF AN AGGRAVATED FELONY.

(a) IN GENERAL.—Section 212(c) (8 U.S.C. 1182(c)) is amended by adding at the end the following: "The first sentence of this subsection shall not apply to an alien who has been convicted of an aggravated felony and has served a term of imprisonment of at least 5 years.".

8 USC 1182 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to admissions occurring after the date of the enactment of this Act.

SEC. 512. AUTHORIZATION OF ADDITIONAL IMMIGRATION JUDGES FOR DEPORTATION PROCEEDINGS INVOLVING CRIMINAL ALIENS.

Appropriation authorization.

There are authorized to be appropriated in each of fiscal years 1991 through 1995 such sums as are necessary to provide for 2 additional immigration judges in the Department of Justice, to be used to conduct proceedings under section 242A(d) of the Immigration and Nationality Act (8 U.S.C. 1252a(d)).

SEC. 513. EFFECT OF FILING PETITION FOR REVIEW.

(a) NO STAY UNLESS COURT ORDER.—Section 106(a)(3) (8 U.S.C. 1105a(a)(3)) is amended by inserting before the semicolon at the end the following: "or unless the alien is convicted of an aggravated felony, in which case the Service shall not stay the deportation of the alien pending determination of the petition of the court unless the court otherwise directs".

8 USC 1105a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to petitions to review filed more than 60 days after the date of the enactment of this Act.

SEC. 514. EXTENDING BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) IN GENERAL.—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended by striking "10 years" and inserting "20 years".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to admissions occurring on or after January 1, 1991. 8 USC 1182 note.

SEC. 515. ASYLUM IN THE CASE OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) IN GENERAL.—(1) Section 208 (8 U.S.C. 1158) is amended by adding at the end the following new subsection:

"(d) An alien who has been convicted of an aggravated felony, notwithstanding subsection (a), may not apply for or be granted asylum.".

(2) Section 243(h)(2) (8 U.S.C. 1253(h)(2)) is amended by adding at the end the following:

'For purposes of subparagraph (B), an alien who has been convicted of an aggravated felony shall be considered to have committed a particularly serious crime.".

(b) EFFECTIVE DATES.— 8 USC 1158 note.

(1) The amendment made by subsection (a)(1) shall apply to applications for asylum made on or after the date of the enactment of this Act.

(2) The amendment made by subsection (a)(1) shall take effect on the date of the enactment of this Act and shall apply to convictions entered before, on, or after the date of the enactment of this Act.

## Subtitle B—Provision Relating to Employer Sanctions

SEC. 521. ELIMINATION OF PAPERWORK REQUIREMENT FOR RECRUITERS AND REFERRERS.

(a) IN GENERAL.—Section 274A(a)(1) (8 U.S.C. 1324a(a)(1)) is amended—

(1) by striking "to hire, or to recruit or refer for a fee, for employment in the United States",

(2) in subparagraph (A), by inserting after "(A)" the following: "to hire, or to recruit or refer for a fee, for employment in the United States", and

(3) in subparagraph (B), by inserting after "(B)" the following: "(i) to hire for employment in the United States an individual without complying with the requirements of subsection (b) or (ii) if the person or entity is an agricultural association, agricultural employer, or farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act), to hire, or to recruit or refer for a fee, for employment in the United States". Agriculture.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to recruiting and referring occurring on or after the date of the enactment of this Act. 8 USC 1324a note.

Employment.

## Subtitle C—Provisions Relating to Anti-Discrimination

### SEC. 531. DISSEMINATION OF INFORMATION CONCERNING ANTI-DISCRIMINATION PROTECTIONS UNDER IRCA AND TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.

Section 274B (8 U.S.C. 1324b) is amended by adding at the end the following new subsection:

"(l) DISSEMINATION OF INFORMATION CONCERNING ANTI-DISCRIMINATION PROVISIONS.—

"(1) Not later than 3 months after the date of the enactment of this subsection, the Special Counsel, in cooperation with the chairman of the Equal Employment Opportunity Commission, the Secretary of Labor, and the Administrator of the Small Business Administration, shall conduct a campaign to disseminate information respecting the rights and remedies prescribed under this section and under title VII of the Civil Rights Act of 1964 in connection with unfair immigration-related employment practices. Such campaign shall be aimed at increasing the knowledge of employers, employees, and the general public concerning employer and employee rights, responsibilities, and remedies under this section and such title.

"(2) In order to carry out the campaign under this subsection, the Special Counsel—

"(A) may, to the extent deemed appropriate and subject to the availability of appropriations, contract with public and private organizations for outreach activities under the campaign, and

"(B) shall consult with the Secretary of Labor, the chairman of the Equal Employment Opportunity Commission, and the heads of such other agencies as may be appropriate.

Appropriation authorization.

"(3) There are authorized to be appropriated to carry out this subsection $10,000,000 for each fiscal year (beginning with fiscal year 1991).".

### SEC. 532. INCLUSION OF CERTAIN SEASONAL AGRICULTURAL WORKERS WITHIN SCOPE OF ANTI-DISCRIMINATION PROTECTIONS.

(a) IN GENERAL.—Section 274B(a)(3)(B)(i) (8 U.S.C. 1324b(a)(3)(B)(i) is amended by inserting "210(a), 210A(a), or" before "245A(a)(1)".

8 USC 1324b note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions occurring on or after the date of the enactment of this Act.

### SEC. 533. ELIMINATION OF REQUIREMENT THAT ALIENS FILE A DECLARATION OF INTENDING TO BECOME A CITIZEN IN ORDER TO FILE ANTI-DISCRIMINATION COMPLAINT.

(a) IN GENERAL.—Section 274B(a) (8 U.S.C. 1324b(a)) is amended—

(1) in paragraph (1)(B), by striking "citizen or intending citizen" and inserting "protected individual";

(2) in paragraph (3), by striking "CITIZEN OR INTENDING CITIZEN" and inserting "PROTECTED INDIVIDUAL";

(3) in paragraph (3), by striking "citizen or intending citizen" and inserting "protected individual"; and

(4) in paragraph (3)(B)—

(A) by striking "is an alien" and all that follows through "but does not" and inserting "is an alien who is lawfully admitted for permanent residence, is granted the status of an alien lawfully admitted for temporary residence under section 210(a), 210A(a), or 245A(a)(1), is admitted as a refugee under section 207, or is granted asylum under section 208; but does not", and

(B) by striking "(I)" and "(II)" and inserting "(i)" and "(ii)", respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to unfair immigration-related employment practices occurring before, on, or after the date of the enactment of this Act. 8 USC 1324b note.

SEC. 534. ANTI-RETALIATION PROTECTIONS.

(a) CODIFICATION OF REGULATION.—Section 274B(a) (8 U.S.C. 1324b(a)) is amended by adding at the end the following:

"(5) PROHIBITION OF INTIMIDATION OR RETALIATION.—It is also an unfair immigration-related employment practice for a person or other entity to intimidate, threaten, coerce, or retaliate against any individual for the purpose of interfering with any right or privilege secured under this section or because the individual intends to file or has filed a charge or a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this section. An individual so intimidated, threatened, coerced, or retaliated against shall be considered, for purposes of subsections (d) and (g), to have been discriminated against.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions occurring on or after the date of the enactment of this Act. 8 USC 1324b note.

SEC. 535. TREATMENT OF CERTAIN ACTIONS AS DISCRIMINATION.

(a) DOCUMENTATION ABUSES.—Section 274B(a) (8 U.S.C. 1324b(a)), as amended by section 534, is further amended by adding at the end the following new paragraph:

"(6) TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS EMPLOYMENT PRACTICES.—For purposes of paragraph (1), a person's or other entity's request, for purposes of satisfying the requirements of section 274A(b), for more or different documents than are required under such section or refusing to honor documents tendered that on their face reasonably appear to be genuine shall be treated as an unfair immigration-related employment practice relating to the hiring of individuals.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, but shall apply to actions occurring on or after such date. 8 USC 1324b note.

SEC. 536. CONFORMING CIVIL MONEY PENALTIES FOR ANTI-DISCRIMINATION VIOLATIONS TO THOSE FOR EMPLOYER SANCTIONS.

(a) CIVIL MONEY PENALTIES.—Section 274B(g)(2)(B) (8 U.S.C. 1324b(g)(2)(B)) is amended by amending clause (iv) to read as follows:

"(iv)(I) except as provided in subclauses (II) through (IV), to pay a civil penalty of not less than $250 and not more than $2,000 for each individual discriminated against,

"(II) except as provided in subclause (IV), in the case of a person or entity previously subject to a single order

under this paragraph, to pay a civil penalty of not less than $2,000 and not more than $5,000 for each individual discriminated against,

"(III) except as provided in subclause (IV), in the case of a person or entity previously subject to more than one order under this paragraph, to pay a civil penalty of not less than $3,000 and not more than $10,000 for each individual discriminated against, and

"(IV) in the case of an unfair immigration-related employment practice described in subsection (a)(6), to pay a civil penalty of not less than $100 and not more than $1,000 for each individual discriminated against."

8 USC 1324b note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to unfair immigration-related employment practices occurring after the date of the enactment of this Act.

SEC. 537. PERIOD FOR FILING OF COMPLAINTS.

(a) 120-DAY PERIOD.—Section 274B(d)(2) (8 U.S.C. 1324b(d)(2)) is amended—

(1) by inserting "the Special Counsel shall notify the person making the charge of the determination not to file such a complaint during such period and" after "120-day period,"

(2) by inserting "within 90 days after the date of receipt of the notice" before the period at the end, and

(3) by adding at the end the following: "The Special Counsel's failure to file such a complaint within such 120-day period shall not affect the right of the Special Counsel to investigate the charge or to bring a complaint before an administrative law judge during such 90-day period.".

8 USC 1324b note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to charges received on or after the date of the enactment of this Act.

SEC. 538. SPECIAL COUNSEL ACCESS TO EMPLOYMENT ELIGIBILITY VERIFICATION FORMS.

(a) IN GENERAL.—Section 274A(b)(3) (8 U.S.C. 1324a(b)(3)) is amended by inserting ", the Special Counsel for Immigration-Related Unfair Employment Practices," after "officers of the Service,"

8 USC 1324a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 539. ADDITIONAL RELIEF IN ORDERS.

(a) IN GENERAL.—Section 274B(g)(2)(B) (8 U.S.C. 1324b(g)(2)(B)) is amended—

(1) by striking "and" at the end of clause (iii),

(2) by striking the period at the end of clause (iv)(II) and inserting a comma, and

(3) by adding at the end the following:

"(v) to post notices to employees about their rights under this section and employers' obligations under section 274A,

"(vi) to educate all personnel involved in hiring and complying with this section or section 274A about the requirements of this section or such section,

"(vii) to order (in an appropriate case) the removal of a false performance review or false warning from an employee's personnel file, and

"(viii) to order (in an appropriate case) the lifting of any restrictions on an employee's assignments, work shifts, or movements.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) all apply to orders with respect to unfair immigration-related ployment practices occurring on or after the date of the enact- nt of this Act. 8 USC 1324b note.

## Subtitle D—General Enforcement

C. 541. AUTHORIZING INCREASE BY 1,000 IN BORDER PATROL PERSONNEL.

There are authorized to be appropriated for fiscal year 1991 such ditional sums as may be necessary to provide for an increase of )00 in the authorized personnel level of the border patrol of the migration and Naturalization Service, above the authorized level the patrol as of September 30, 1990. Appropriation authorization.

C. 542. APPLICATION OF INCREASE IN PENALTIES TO ENHANCE ENFORCEMENT ACTIVITIES.

(a) IN GENERAL.—Section 280 (8 U.S.C. 1330) is amended—

(1) by inserting "(a)" after "280.", and

(2) by adding at the end the following new subsection:

"(b) Notwithstanding section 3302 of title 31, United States Code, e increase in penalties collected resulting from the amendments ade by sections 203(b), 543(a), and 544 of the Immigration Act of 90 shall be credited to the appropriation— 8 USC 1330 note.

"(1) for the Immigration and Naturalization Service for activities that enhance enforcement of provisions of this title, including—

"(A) the identification, investigation, and apprehension of criminal aliens,

"(B) the implementation of the system described in section 242(a)(3)(A), and

"(C) for the repair, maintainance, or construction on the United States border, in areas experiencing high levels of apprehensions of illegal aliens, of structures to deter illegal entry into the United States; and

"(2) for the Executive Office for Immigration Review in the Department of Justice for the purpose of removing the backlogs in the preparation of transcripts of deportation proceedings conducted under section 242.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) all apply to fines and penalties collected on or after January 1, 91.

C. 543. INCREASE IN FINE LEVELS; AUTHORITY OF THE INS TO COLLECT FINES.

(a) CIVIL PENALTIES.—

(1) FAILURE TO DELIVER MANIFEST.—Section 231(d) (8 U.S.C. 1221(d)) is amended by striking "collector of customs at the port of arrival or departure the sum of $10" and inserting "Commissioner the sum of $300".

(2) FAILURE TO PROVIDE FOR DEPORTATION.—Section 237(b) (8 U.S.C. 1227(b)) is amended by striking "district director of customs of the district in which port of arrival is situated or in

which any vessel or aircraft of the line may be found, the sum of $300" and inserting "Commissioner the sum of $2,000".

(3) IMPROPER AIRCRAFT ENTRY.—Section 239 (8 U.S.C. 1229) is amended by striking "$500" and inserting "$2,000".

(4) FAILURE TO CONTROL CREW.—Section 254(a) (8 U.S.C. 1284(a)) is amended—

(A) in the first sentence, by striking "collector of customs of the customs district in which the port of arrival is located or in which the failure to comply with the orders of the officer occurs the sum of $1,000" and inserting "Commissioner the sum of $3,000", and

(B) in the third sentence by striking "$200" and inserting "$500".

(5) EMPLOYMENT OF CERTAIN CREW.—Section 255 (8 U.S.C. 1285) is amended—

(A) in the second sentence, by striking "collector of customs of the customs district in which the port of arrival is located the sum of $50" and inserting "Commissioner the sum of $1,000", and

(B) in the third sentence, by striking "collector of customs" and inserting "Commissioner".

(6) IMPROPER DISCHARGE OF CREW.—Section 256 (8 U.S.C. 1286) is amended—

(A) in the second sentence, by striking "collector of customs of the customs district in which the violation occurred the sum of $1,000" and inserting "Commissioner the sum of $3,000",

(B) in the third sentence, by striking "collector of customs" and inserting "Commissioner", and

(C) in the fourth sentence, by striking "$500" and inserting "$1,500".

(7) ASSISTING UNLAWFUL ENTRY OF CREW.—Section 257 (8 U.S.C. 1287) is amended by striking "$5,000" and inserting "$10,000".

(8) DUTY TO PREVENT UNAUTHORIZED ENTRIES.—Section 271(a) (8 U.S.C. 1321) is amended by striking "$1,000" and inserting "$3,000".

(9) BRINGING IN CERTAIN ALIENS.—Section 272 (8 U.S.C. 1322) is amended—

(A) in subsection (a)—

(i) by striking "collector of customs of the customs district in which the place of arrival is located" and inserting "Commissioner", and

(ii) by striking "$1,000" and inserting "$3,000";

(B) in subsection (b)—

(i) by striking "collector of customs of the customs district in which the place of arrival is located" and inserting "Commissioner", and

(ii) by striking "$250" and inserting "$3,000"; and

(C) in subsection (c), by striking "collector of customs" and inserting "Commissioner".

(10) UNLAWFUL BRINGING OF ALIENS.—Section 273 (8 U.S.C. 1323) is amended—

(A) in subsection (b), by striking "collector of customs of the customs district in which the port of arrival is located the sum of $1,000" and inserting "Commissioner the sum of $3,000", and

(B) in subsection (d)—

(i) in the first sentence, by striking "collector of customs of the customs district in which the port of arrival is located the sum of $1,000" and inserting "Commissioner the sum of $3,000", and

(ii) in the second sentence, by striking "collector of customs" and inserting "Commissioner".

(b) CRIMINAL FINE LEVELS.—

(1) CREW MEMBER OVERSTAYING.—Section 252(c) (8 U.S.C. 1282(c)) is amended by striking "shall be guilty" and all that follows through "six months" and inserting "shall be fined not more than $2,000 (or, if greater, the amount provided under title 18, United States Code) or imprisoned not more than 6 months".

(2) CONCEALMENT OF ALIENS.—Section 275 (8 U.S.C. 1325) is amended—

(A) by inserting "or attempts to enter" after "(1) enters",

(B) by inserting "attempts to enter or" after "or (3)", and

(C) by striking "shall, for the first commission", and all that follows through "$1,000" and inserting "shall, for the first commission of any such offense, be fined not more than $2,000 (or, if greater, the amount provided under title 18, United States Code) or imprisoned not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under title 18, United States Code, or imprisoned not more than 2 years".

(3) UNLAWFUL REENTRY.—Section 276 (8 U.S.C. 1326) is amended by striking "shall be guilty" and all that follows through "$1,000" and inserting "shall be fined under title 18, United States Code, or imprisoned not more than 2 years".

(4) AIDING IN ENTRY OF SUBVERSIVES.—Section 277 (8 U.S.C. 1327) is amended by striking "shall be guilty" and all that follows through "five years" and inserting "shall be fined under title 18, United States Code, or imprisoned not more than 10 years".

(5) IMPORTING PROSTITUTES.—Section 278 (8 U.S.C. 1328) is amended by striking "shall, in every" and all that follows through "ten years" and inserting "shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both".

(c) EFFECTIVE DATES.—The amendments made by subsections (a) nd (b) shall apply to actions taken after the date of the enactment f this Act. 8 USC 1221 note.

EC. 544. CIVIL PENALTIES FOR DOCUMENT FRAUD.

(a) DOCUMENT FRAUD.—Title II is amended by adding after section 74B the following new section:

"PENALTIES FOR DOCUMENT FRAUD

"SEC. 274C. (a) ACTIVITIES PROHIBITED.—It is unlawful for any erson or entity knowingly— 8 USC 1324c.

"(1) to forge, counterfeit, alter, or falsely make any document for the purpose of satisfying a requirement of this Act,

"(2) to use, attempt to use, possess, obtain, accept, or receive any forged, counterfeit, altered, or falsely made document in order to satisfy any requirement of this Act,

"(3) to use or attempt to use any document lawfully issued to a person other than the possessor (including a deceased individual) for the purpose of satisfying a requirement of this Act, or

"(4) to accept or receive any document lawfully issued to a person other than the possessor (including a deceased individual) for the purpose of complying with section 274A(b).

"(b) EXCEPTION.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).

"(c) CONSTRUCTION.—Nothing in this section shall be construed to diminish or qualify any of the penalties available for activities prohibited by this section but proscribed as well in title 18, United States Code.

"(d) ENFORCEMENT.—

"(1) AUTHORITY IN INVESTIGATIONS.—In conducting investigations and hearings under this subsection—

"(A) immigration officers and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated, and

"(B) administrative law judges, may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

"(2) HEARING.—

"(A) IN GENERAL.—Before imposing an order described in paragraph (3) against a person or entity under this subsection for a violation of subsection (a), the Attorney General shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Attorney General) of the date of the notice, a hearing respecting the violation.

"(B) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the Attorney General's imposition of the order shall constitute a final and unappealable order.

"(C) ISSUANCE OF ORDERS.—If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity has violated subsection (a), the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (3).

"(3) CEASE AND DESIST ORDER WITH CIVIL MONEY PENALTY.—With respect to a violation of subsection (a), the order under this subsection shall require the person or entity to cease and desist

from such violations and to pay a civil penalty in an amount of—

"(A) not less than $250 and not more than $2,000 for each document used, accepted, or created and each instance of use, acceptance, or creation, or

"(B) in the case of a person or entity previously subject to an order under this paragraph, not less than $2,000 and not more than $5,000 for each document used, accepted, or created and each instance of use, acceptance, or creation.

In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

"(4) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge shall become the final agency decision and order of the Attorney General unless, within 30 days, the Attorney General modifies or vacates the decision and order, in which case the decision and order of the Attorney General shall become a final order under this subsection.

"(5) JUDICIAL REVIEW.—A person or entity adversely affected by a final order under this section may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(6) ENFORCEMENT OF ORDERS.—If a person or entity fails to comply with a final order issued under this section against the person or entity, the Attorney General shall file a suit to seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.".

(b) NEW GROUND OF DEPORTATION.—Section 241(a) (8 U.S.C. 1251(a)) is amended—

(1) by striking "or" at the end of paragraph (19),

(2) by striking the period at the end of paragraph (20) and inserting "; or", and

(3) by adding at the end the following new paragraph:

"(21) is the subject of a final order for violation of section 274C.".

(c) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 274B the following new item:

"Sec. 274C. Penalties for document fraud.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to persons or entities that have committed violations on or after the date of the enactment of this Act. 8 USC 1251 note.

**SEC. 545. DEPORTATION PROCEDURES; REQUIRED NOTICE OF DEPORTATION HEARING; LIMITATION ON DISCRETIONARY RELIEF.**

(a) IN GENERAL.—Chapter 5 of title II is amended by inserting after section 242A the following new section:

"DEPORTATION PROCEDURES

"SEC. 242B. (a) NOTICES.— 8 USC 1252b.

"(1) ORDER TO SHOW CAUSE.—In deportation proceedings under section 242, written notice (in this section referred to as an 'order to show cause') shall be given in person to the alien (or, if personal service is not practicable, such notice shall be given by certified mail to the alien or to the alien's counsel of record, if any) specifying the following:

"(A) The nature of the proceedings against the alien.

"(B) The legal authority under which the proceedings are conducted.

"(C) The acts or conduct alleged to be in violation of law.

"(D) The charges against the alien and the statutory provisions alleged to have been violated.

"(E) The alien may be represented by counsel and, upon request, the alien will be provided a list of counsel prepared under subsection (b)(2).

"(F)(i) The requirement that the alien must immediately provide (or have provided) the Attorney General with a written record of an address and telephone number (if any) at which the alien may be contacted respecting proceedings under section 242.

"(ii) The requirement that the alien must provide the Attorney General immediately with a written record of any change of the alien's address or telephone number.

"(iii) The consequences under subsection (c)(2) of failure to provide address and telephone information pursuant to this subparagraph.

"(2) NOTICE OF TIME AND PLACE OF PROCEEDINGS.—In deportation proceedings under section 242—

"(A) written notice shall be given in person to the alien (or, if personal service is not practicable, written notice shall be given by certified mail to the alien or to the alien's counsel of record, if any), in the order to show cause or otherwise, of—

"(i) the time and place at which the proceedings will be held, and

"(ii) the consequences under subsection (c) of the failure to appear at such proceedings; and

"(B) in the case of any change or postponement in the time and place of such proceedings, written notice shall be given in person to the alien (or, if personal service is not practicable, written notice shall be given by certified mail to the alien or to the alien's counsel of record, if any) of—

"(i) the new time or place of the proceedings, and

"(ii) the consequences under subsection (c) of failing except under exceptional circumstances, to attend such proceedings.

"(3) FORM OF INFORMATION.—Each order to show cause or other notice under this subsection—

"(A) shall be in English and Spanish, and

"(B) shall specify that the alien may be represented by an attorney in deportation proceedings under section 242 and will be provided, in accordance with subsection (b)(1), a period of time in order to obtain counsel and a current list described in subsection (b)(2).

Records.

"(4) CENTRAL ADDRESS FILES.—The Attorney General shall create a system to record and preserve on a timely basis notice

of addresses and telephone numbers (and changes) provided under paragraph (1)(F).

"(b) SECURING OF COUNSEL.—

"(1) IN GENERAL.—In order that an alien be permitted the opportunity to secure counsel before the first hearing date in proceedings under section 242, the hearing date shall not be scheduled earlier than 14 days after the service of the order to show cause.

"(2) CURRENT LISTS OF COUNSEL.—The Attorney General shall provide for lists (updated not less often than quarterly) of persons who have indicated their availability to represent aliens in proceedings under section 242.

"(c) CONSEQUENCES OF FAILURE TO APPEAR.—

"(1) IN GENERAL.—Any alien who, after written notice required under subsection (a)(2) has been provided to the alien or the alien's counsel of record, except as provided in paragraph (2), does not attend a proceeding under section 242, shall be ordered deported under section 242(b)(1) in absentia if the Service establishes by clear, unequivocal, and convincing evidence that, except as provided in paragraph (2), the written notice was so provided and that the alien is deportable.

"(2) NO NOTICE IF FAILURE TO PROVIDE ADDRESS INFORMATION.—No written notice shall be required under paragraph (1) if the alien has failed to provide the address required under subsection (a)(1)(F). Such written notice shall be considered sufficient if provided at the most recent address provided under such subsection.

"(3) RESCISSION OF ORDER.—Such an order may be rescinded only—

"(A) upon a motion to reopen filed within 180 days after the date of the order of deportation if the alien demonstrates that the failure to appear was because of exceptional circumstances (as defined in subsection (f)(2)), or

"(B) upon a motion to reopen filed at any time if the alien demonstrates that the alien did not receive notice in accordance with subsection (a)(2) or the alien demonstrates that the alien was in Federal or State custody and did not appear through no fault of the alien.

The filing of the motion to reopen described in subparagraph (A) or (B) shall stay the deportation of the alien pending disposition of the motion.

"(4) EFFECT ON JUDICIAL REVIEW.—Any petition for review under section 106 of an order entered in absentia under this subsection shall, notwithstanding such section, be filed not later than 60 days after the date of the final order of deportation and shall (except in cases described in section 106(a)(5)) be confined to the issues of the validity of the notice provided to the alien, to the reasons for the alien's not attending the proceeding, and to whether or not clear, convincing, and unequivocal evidence of deportability has been established.

"(d) TREATMENT OF FRIVOLOUS BEHAVIOR.—The Attorney General shall, by regulation— Regulations.

"(1) define in a proceeding before a special inquiry officer or before an appellate administrative body under this title, frivolous behavior for which attorneys may be sanctioned,

"(2) specify the circumstances under which an administrative appeal of a decision or ruling will be considered frivolous and will be summarily dismissed, and

"(3) impose appropriate sanctions (which may include suspension and disbarment) in the case of frivolous behavior.

Nothing in this subsection shall be construed as limiting the authority of the Board to take actions with respect to inappropriate behavior.

"(e) LIMITATION ON DISCRETIONARY RELIEF FOR FAILURE TO APPEAR.—

"(1) AT DEPORTATION PROCEEDINGS.—Any alien against whom a final order of deportation is entered in absentia under this section and who, at the time of the notice described in subsection (a)(2), was provided oral notice, either in the alien's native language or in another language the alien understands, of the time and place of the proceedings and of the consequences under this paragraph of failing, other than because of exceptional circumstances (as defined in subsection (f)(2)) to attend a proceeding under section 242, shall not be eligible for relief described in paragraph (5) for a period of 5 years after the date of the entry of the final order of deportation.

"(2) VOLUNTARY DEPARTURE.—

"(A) IN GENERAL.—Subject to subparagraph (B), any alien allowed to depart voluntarily under section 244(e)(1) or who has agreed to depart voluntarily at his own expense under section 242(b)(1) who remains in the United States after the scheduled date of departure, other than because of exceptional circumstances, shall not be eligible for relief described in paragraph (5) for a period of 5 years after the scheduled date of departure or the date of unlawful reentry, respectively.

"(B) WRITTEN AND ORAL NOTICE REQUIRED.—Subparagraph (A) shall not apply to an alien allowed to depart voluntarily unless, before such departure, the Attorney General has provided written notice to the alien in English and Spanish and oral notice either in the alien's native language or in another language the alien understands of the consequences under subparagraph (A) of the alien's remaining in the United States after the scheduled date of departure, other than because of exceptional circumstances.

"(3) FAILURE TO APPEAR UNDER DEPORTATION ORDER.—

"(A) IN GENERAL.—Subject to subparagraph (B), any alien against whom a final order of deportation is entered under this section and who fails, other than because of exceptional circumstances, to appear for deportation at the time and place ordered shall not be eligible for relief described in paragraph (5) for a period of 5 years after the date the alien was required to appear for deportation.

"(B) WRITTEN AND ORAL NOTICE REQUIRED.—Subparagraph (A) shall not apply to an alien against whom a deportation order is entered unless the Attorney General has provided, orally in the alien's native language or in another language the alien understands and in the final order of deportation under this section of the consequences under subparagraph (A) of the alien's failure, other than because of exceptional circumstances, to appear for deportation at the time and place ordered.

"(4) FAILURE TO APPEAR FOR ASYLUM HEARING.—

"(A) IN GENERAL.—Subject to subparagraph (B), any alien—

"(i) whose period of authorized stay (if any) has expired through the passage of time,

"(ii) who has filed an application for asylum, and

"(iii) who fails, other than because of exceptional circumstances, to appear at the time and place specified for the asylum hearing,

shall not be eligible for relief described in paragraph (5) for a period of 5 years after the date of the asylum hearing.

"(B) WRITTEN AND ORAL NOTICE REQUIRED.—Subparagraph (A) shall not apply in the case of an alien with respect to failure to be present at a hearing unless—

"(i) written notice in English and Spanish, and oral notice either in the alien's native language or in another language the alien understands, was provided to the alien of the time and place at which the asylum hearing will be held, and in the case of any change or postponement in such time or place, written notice in English and Spanish, and oral notice either in the alien's native language or in another language the alien understands, was provided to the alien of the new time or place of the hearing; and

"(ii) notices under clause (i) specified the consequences under subparagraph (A) of failing, other than because of exceptional circumstances, to attend such hearing.

"(5) RELIEF COVERED.—The relief described in this paragraph is—

"(A) relief under section 212(c),

"(B) voluntary departure under section 242(b)(1),

"(C) suspension of deportation or voluntary departure under section 244, and

"(D) adjustment or change of status under section 245, 248, or 249.

"(f) DEFINITIONS.—In this section:

"(1) The term 'certified mail' means certified mail, return receipt requested.

"(2) The term 'exceptional circumstances' refers to exceptional circumstances (such as serious illness of the alien or death of an immediate relative of the alien, but not including less compelling circumstances) beyond the control of the alien.".

(b) JUDICIAL REVIEW.—Section 106(a) (8 U.S.C. 1105a) is amended—

(1) in paragraph (1), by striking "6 months" and inserting "90 days",

(2) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively, and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) whenever a petitioner seeks review of an order under this section, any review sought with respect to a motion to reopen or reconsider such an order shall be consolidated with the review of the order;".

(c) REPORT ON CONSOLIDATION OF REQUESTS FOR RELIEF.—The Attorney General shall submit to the Congress by not later than 6

months after the date of the enactment of this Act, a report o abuses associated with the failure of aliens to consolidate request for discretionary relief before immigration judges at the first hea ing on the merits. The Attorney General shall take into accoun possible exceptions appropriate in the interest of justice and sha include in the report such recommendations for changes in regul tions or law as may be needed to prevent such abuses.

8 USC 1252 note.

(d) REGULATIONS ON MOTIONS TO REOPEN AND TO RECONSIDER AN ON ADMINISTRATIVE APPEALS.—Within 6 months after the date the enactment of this Act, the Attorney General shall issue regul tions with respect to—

(1) the period of time in which motions to reopen and reconsider may be offered in deportation proceedings, whic regulations include a limitation on the number of such motio that may be filed and a maximum time period for the filing such motions; and

(2) the time period for the filing of administrative appeals deportation proceedings and for the filing of appellate and rep briefs, which regulations include a limitation on the number administrative appeals that may be made, a maximum tin period for the filing of such motions and briefs, the items to included in the notice of appeal, and the consolidation of m tions to reopen or to reconsider with the appeal of the order deportation.

(e) CONFORMING AMENDMENT.—The 8th sentence of section 242 (8 U.S.C. 1252(b)) is amended to read as follows: "Such regulatio shall include requirements consistent with section 242B.".

(f) CLERICAL AMENDMENT.—The table of contents is amended inserting after the item relating to section 242A the following n item:

"Sec. 242B. Deportation procedures.".

8 USC 1252b note.

(g) EFFECTIVE DATES.—

(1) NOTICE-RELATED PROVISIONS.—

(A) Subsections (a), (b), (c), and (e)(1) of section 242B of t Immigration and Nationality Act (as inserted by t amendment made by subsection (a)), and the amendm made by subsection (e), shall be effective on a date specif by the Attorney General in the certification described subparagraph (B), which date may not be earlier thar months after the date of such certification.

(B) The Attorney General shall certify to the Congr when the central address file system (described in secti 242B(a)(4) of the Immigration and Nationality Act) has be established.

Reports.

(C) The Comptroller General shall submit to Congre within 3 months after the date of the Attorney Gener certification under subparagraph (B), a report on the a quacy of such system.

(2) CERTAIN LIMITS ON DISCRETIONARY RELIEF; SANCTIONS I FRIVOLOUS BEHAVIOR.—Subsections (d), (e)(2), and (e)(3) of sect 242B of the Immigration and Nationality Act (as inserted by amendment made by subsection (a)) shall be effective on date of the enactment of this Act.

(3) LIMITS ON DISCRETIONARY RELIEF FOR FAILURE TO APPEAR ASYLUM HEARING.—Subsection (e)(4) of section 242B of Immigration and Nationality Act (as inserted by the ame

ment made by subsection (a)) shall be effective on February 1, 1991.

(4) CONSOLIDATION OF RELIEF IN JUDICIAL REVIEW.—The amendments made by subsection (b) shall apply to final orders of deportation entered on or after January 1, 1991.

# TITLE VI—EXCLUSION AND DEPORTATION

## EC. 601. REVISION OF GROUNDS FOR EXCLUSION.

(a) REVISED GROUNDS FOR EXCLUSION.—Subsection (a) of section 12 (8 U.S.C. 1182) is amended to read as follows:

"(a) CLASSES OF EXCLUDABLE ALIENS.—Except as otherwise provided in this Act, the following describes classes of excludable aliens who are ineligible to receive visas and who shall be excluded from admission into the United States:

"(1) HEALTH-RELATED GROUNDS.— Regulations.

"(A) IN GENERAL.—Any alien—

"(i) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to have a communicable disease of public health significance,

"(ii) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services in consultation with the Attorney General)—

"(I) to have a physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others, or

"(II) to have had a physical or mental disorder and a history of behavior associated with the disorder, which behavior has posed a threat to the property, safety, or welfare of the alien or others and which behavior is likely to recur or to lead to other harmful behavior,

"(iii) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to be a drug abuser or addict,

is excludable.

"(B) WAIVER AUTHORIZED.—For provision authorizing waiver of certain clauses of subparagraph (A), see subsection (g).

"(2) CRIMINAL AND RELATED GROUNDS.—

"(A) CONVICTION OF CERTAIN CRIMES.—

"(i) IN GENERAL.—Except as provided in clause (ii), any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of—

"(I) a crime involving moral turpitude (other than a purely political offense), or

"(II) a violation of (or a conspiracy to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)),

is excludable.

"(ii) EXCEPTION.—Clause (i)(I) shall not apply to an alien who committed only one crime if—

"(I) the crime was committed when the alien was under 18 years of age, and the crime was committed (and the alien released from any confinement to a prison or correctional institution imposed for the crime) more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States, or

"(II) the maximum penalty possible for the crime of which the alien was convicted (or which the alien admits having committed or of which the acts that the alien admits having committed constituted the essential elements) did not exceed imprisonment for one year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment in excess of 6 months (regardless of the extent to which the sentence was ultimately executed).

"(B) MULTIPLE CRIMINAL CONVICTIONS.—Any alien convicted of 2 or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement actually imposed were 5 years or more is excludable.

"(C) CONTROLLED SUBSTANCE TRAFFICKERS.—Any alien who the consular or immigration officer knows or has reason to believe is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assister, abettor, conspirator, or colluder with others in the illicit trafficking in any such controlled substance, is excludable.

"(D) PROSTITUTION AND COMMERCIALIZED VICE.—Any alien who—

"(i) is coming to the United States solely, principally, or incidentally to engage in prostitution, or has engaged in prostitution within 10 years of the date of application for a visa, entry, or adjustment of status,

"(ii) directly or indirectly procures or attempts to procure, or (within 10 years of the date of application for a visa, entry, or adjustment of status) procured or attempted to procure or to import, prostitutes or persons for the purpose of prostitution, or receives or (within such 10-year period) received, in whole or in part, the proceeds of prostitution, or

"(iii) is coming to the United States to engage in any other unlawful commercialized vice, whether or not related to prostitution,

is excludable.

"(E) CERTAIN ALIENS INVOLVED IN SERIOUS CRIMINAL ACTIVITY WHO HAVE ASSERTED IMMUNITY FROM PROSECUTION.—Any alien—

"(i) who has committed in the United States at any time a serious criminal offense (as defined in section 101(h)),

"(ii) for whom immunity from criminal jurisdiction was exercised with respect to that offense,

"(iii) who as a consequence of the offense and exercise of immunity has departed from the United States, and

"(iv) who has not subsequently submitted fully to the jurisdiction of the court in the United States having jurisdiction with respect to that offense,

is excludable.

"(F) WAIVER AUTHORIZED.—For provision authorizing waiver of certain subparagraphs of this paragraph, see subsection (h).

"(3) SECURITY AND RELATED GROUNDS.—

"(A) IN GENERAL.—Any alien who a consular officer or the Attorney General knows, or has reasonable ground to believe, seeks to enter the United States to engage solely, principally, or incidentally in—

"(i) any activity to violate any law of the United States relating to espionage or sabotage or to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information,

"(ii) any other unlawful activity, or

"(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means,

is excludable.

"(B) TERRORIST ACTIVITIES.—

"(i) IN GENERAL.—Any alien who—

"(I) has engaged in a terrorist activity, or

"(II) a consular officer or the Attorney General knows, or has reasonable ground to believe, is likely to engage after entry in any terrorist activity (as defined in clause (iii)),

is excludable. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this Act, to be engaged in a terrorist activity. Palestine Liberation Organization.

"(ii) TERRORIST ACTIVITY DEFINED.—As used in this Act, the term 'terrorist activity' means any activity which is unlawful under the laws of the place where it is committed (or which, if committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following:

"(I) The highjacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).

"(II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.

"(III) A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of title 18, United States Code) or upon the liberty of such a person.

"(IV) An assassination.

"(V) The use of any—

"(a) biological agent, chemical agent, or nuclear weapon or device, or

"(b) explosive or firearm (other than for mere personal monetary gain),

with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.

"(VI) A threat, attempt, or conspiracy to do any of the foregoing.

"(iii) ENGAGE IN TERRORIST ACTIVITY DEFINED.—As used in this Act, the term 'engage in terrorist activity' means to commit, in an individual capacity or as a member of an organization, an act of terrorist activity or an act which the actor knows, or reasonably should know, affords material support to any individual, organization, or government in conducting a terrorist activity at any time, including any of the following acts:

"(I) The preparation or planning of a terrorist activity.

"(II) The gathering of information on potential targets for terrorist activity.

"(III) The providing of any type of material support, including a safe house, transportation, communications, funds, false identification, weapons, explosives, or training, to any individual the actor knows or has reason to believe has committed or plans to commit an act of terrorist activity.

"(IV) The soliciting of funds or other things of value for terrorist activity or for any terrorist organization.

"(V) The solicitation of any individual for membership in a terrorist organization, terrorist government, or to engage in a terrorist activity.

"(C) FOREIGN POLICY.—

"(i) IN GENERAL.—An alien whose entry or proposed activities in the United States the Secretary of State has reasonable ground to believe would have potentially serious adverse foreign policy consequences for the United States is excludable.

"(ii) EXCEPTION FOR OFFICIALS.—An alien who is an official of a foreign government or a purported government, or who is a candidate for election to a foreign government office during the period immediately preceding the election for that office, shall not be excludable or subject to restrictions or conditions on entry into the United States under clause (i) solely because of the alien's past, current, or expected beliefs, statements, or associations, if such beliefs, statements, or associations would be lawful within the United States.

"(iii) EXCEPTION FOR OTHER ALIENS.—An alien, not described in clause (ii), shall not be excludable or subject to restrictions or conditions on entry into the United States under clause (i) because of the alien's past, current, or expected beliefs, statements, or associations, if such beliefs, statements, or associations would be lawful within the United States, unless the Secretary of State personally determines that the alien's admission would compromise a compelling United States foreign policy interest.

"(iv) NOTIFICATION OF DETERMINATIONS.—If a determination is made under clause (iii) with respect to an alien, the Secretary of State must notify on a timely basis the chairmen of the Committees on the Judiciary and Foreign Affairs of the House of Representatives and of the Committees on the Judiciary and Foreign Relations of the Senate of the identities of the alien and the reasons for the determination.

"(D) IMMIGRANT MEMBERSHIP IN TOTALITARIAN PARTY.—

"(i) IN GENERAL.—Any immigrant who is or has been a member of or affiliated with the Communist or any other totalitarian party (or subdivision or affiliate thereof), domestic or foreign, is excludable.

"(ii) EXCEPTION FOR INVOLUNTARY MEMBERSHIP.—Clause (i) shall not apply to an alien because of membership or affiliation if the alien establishes to the satisfaction of the consular officer when applying for a visa (or to the satisfaction of the Attorney General when applying for admission) that the membership or affiliation is or was involuntary, or is or was solely when under 16 years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and whether necessary for such purposes.

"(iii) EXCEPTION FOR PAST MEMBERSHIP.—Clause (i) shall not apply to an alien because of membership or affiliation if the alien establishes to the satisfaction of the consular officer when applying for a visa (or to the satisfaction of the Attorney General when applying for admission) that—

"(I) the membership or affiliation terminated at least—

"(a) 2 years before the date of such application, or

"(b) 5 years before the date of such application, in the case of an alien whose membership or affiliation was with the party controlling the government of a foreign state that is a totalitarian dictatorship as of such date, and

"(II) the alien is not a threat to the security of the United States.

"(iv) EXCEPTION FOR CLOSE FAMILY MEMBERS.—The Attorney General may, in the Attorney General's discretion, waive the application of clause (i) in the case of an immigrant who is the parent, spouse, son, daughter, brother, or sister of a citizen of the United States or a spouse, son, or daughter of an alien lawfully admitted

for permanent residence for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest if the alien is not a threat to the security of the United States.

Germany.

"(E) PARTICIPANTS IN NAZI PERSECUTIONS OR GENOCIDE.—

"(i) PARTICIPATION IN NAZI PERSECUTIONS.—Any alien who, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

"(I) the Nazi government of Germany,

"(II) any government in any area occupied by the military forces of the Nazi government of Germany,

"(III) any government established with the assistance or cooperation of the Nazi government of Germany, or

"(IV) any government which was an ally of the Nazi government of Germany,

ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion is excludable.

"(ii) PARTICIPATION IN GENOCIDE.—Any alien who has engaged in conduct that is defined as genocide for purposes of the International Convention on the Prevention and Punishment of Genocide is excludable.

"(4) PUBLIC CHARGE.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

"(5) LABOR CERTIFICATION AND QUALIFICATIONS FOR CERTAIN IMMIGRANTS.—

"(A) LABOR CERTIFICATION.—

"(i) IN GENERAL.—Any alien who seeks to enter the United States for the purpose of performing skilled or unskilled labor is excludable, unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that—

"(I) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of an alien described in clause (ii)) and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and

"(II) the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed.

"(ii) CERTAIN ALIENS SUBJECT TO SPECIAL RULE.—For purposes of clause (i)(I), an alien described in this clause is an alien who—

"(I) is a member of the teaching profession, or

"(II) has exceptional ability in the sciences or the arts.

"(B) UNQUALIFIED PHYSICIANS.—An alien who is a graduate of a medical school not accredited by a body or bodies approved for the purpose by the Secretary of Education

(regardless of whether such school of medicine is in the United States) and who is coming to the United States principally to perform services as a member of the medical profession is excludable, unless the alien (i) has passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health and Human Services) and (ii) is competent in oral and written English. For purposes of the previous sentence, an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners if the alien was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date.

"(C) APPLICATION OF GROUNDS.—The grounds for exclusion of aliens under subparagraphs (A) and (B) shall apply to preference immigrant aliens described in paragraph (3) or (6) of section 203(a) and to nonpreference immigrant aliens described in section 203(a)(7).

"(6) ILLEGAL ENTRANTS AND IMMIGRATION VIOLATORS.—

"(A) ALIENS PREVIOUSLY DEPORTED.—Any alien who has been excluded from admission and deported and who again seeks admission within one year of the date of such deportation is excludable, unless prior to the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory the Attorney General has consented to the alien's reapplying for admission.

"(B) CERTAIN ALIENS PREVIOUSLY REMOVED.—Any alien who—

"(i) has been arrested and deported,

"(ii) has fallen into distress and has been removed pursuant to this or any prior Act,

"(iii) has been removed as an alien enemy, or

"(iv) has been removed at Government expense in lieu of deportation pursuant to section 242(b),

and who seeks admission within 5 years of the date of such deportation or removal (or within 20 years in the case of an alien convicted of an aggravated felony) is excludable, unless before the date of the alien's embarkation or reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory the Attorney General has consented to the alien's applying or reapplying for admission.

"(C) MISREPRESENTATION.—

"(i) IN GENERAL.—Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or entry into the United States or other benefit provided under this Act is excludable. Fraud.

"(ii) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i), see subsection (i).

"(D) STOWAWAYS.—Any alien who is a stowaway is excludable.

"(E) SMUGGLERS.—

"(i) IN GENERAL.—Any alien who at any time knowingly has encouraged, induced, assisted, abetted, or

aided any other alien to enter or to try to enter t
United States in violation of law is excludable.

"(ii) WAIVER AUTHORIZED.—For provision authorizi
waiver of clause (i), see subsection (d)(11).

"(F) SUBJECT OF CIVIL PENALTY.—An alien who is t
subject of a final order for violation of section 274C
excludable.

"(7) DOCUMENTATION REQUIREMENTS.—

"(A) IMMIGRANTS.—

"(i) IN GENERAL.—Except as otherwise specifica
provided in this Act, any immigrant at the time
application for admission—

"(I) who is not in possession of a valid unexpir
immigrant visa, reentry permit, border crossi
identification card, or other valid entry docume
required by this Act, and a valid unexpired pa
port, or other suitable travel document, or doc
ment of identity and nationality if such docume
is required under the regulations issued by t
Attorney General under section 211(a), or

"(II) whose visa has been issued without comp
ance with the provisions of section 203,

is excludable.

"(ii) WAIVER AUTHORIZED.—For provision authorizi
waiver of clause (i), see subsection (k).

"(B) NONIMMIGRANTS.—

"(i) IN GENERAL.—Any nonimmigrant who—

"(I) is not in possession of a passport valid fo
minimum of six months from the date of t
expiration of the initial period of the alien's adm
sion or contemplated initial period of stay autho
ing the alien to return to the country from wh
the alien came or to proceed to and enter so
other country during such period, or

"(II) is not in possession of a valid nonimmigra
visa or border crossing identification card at t
time of application for admission,

is excludable.

"(ii) GENERAL WAIVER AUTHORIZED.—For provis
authorizing waiver of clause (i), see subsection (d)

"(iii) GUAM VISA WAIVER.—For provision authoriz
waiver of clause (i) in the case of visitors to Guam,
subsection (l).

"(iv) VISA WAIVER PILOT PROGRAM.—For authority
waive the requirement of clause (i) under a pilot p
gram, see section 217.

"(8) INELIGIBLE FOR CITIZENSHIP.—

"(A) IN GENERAL.—Any immigrant who is permanen
ineligible to citizenship is excludable.

"(B) DRAFT EVADERS.—Any alien who has departed fr
or who has remained outside the United States to avoid
evade training or service in the armed forces in time of w
or a period declared by the President to be a natio
emergency is excludable, except that this subparagra
shall not apply to an alien who at the time of such dep
ture was a nonimmigrant and who is seeking to reenter
United States as a nonimmigrant.

"(9) MISCELLANEOUS.—

"(A) PRACTICING POLYGAMISTS.—Any immigrant who is coming to the United States to practice polygamy is excludable.

"(B) GUARDIAN REQUIRED TO ACCOMPANY EXCLUDED ALIEN.—Any alien accompanying another alien ordered to be excluded and deported and certified to be helpless from sickness or mental or physical disability or infancy pursuant to section 237(e), whose protection or guardianship is required by the alien ordered excluded and deported, is excludable.

"(C) INTERNATIONAL CHILD ABDUCTION.—

"(i) IN GENERAL.—Except as provided in clause (ii), any alien who, after entry of a court order granting custody to a citizen of the United States of a child having a lawful claim to United States citizenship, detains, retains, or withholds custody of the child outside the United States from the United States citizen granted custody, is excludable until the child is surrendered to such United States citizen.

"(ii) EXCEPTION.—Clause (i) shall not apply to an alien who is a national of a foreign state that is a signatory to the Hague Convention on the Civil Aspects of International Child Abduction.".

(b) NOTICE OF GROUNDS FOR EXCLUSION.—Such section is amended by striking subsection (b) and inserting the following new subsection: 8 USC 1182.

"(b) NOTICES OF DENIALS.—If an alien's application for a visa, for admission to the United States, or for adjustment of status is denied by an immigration or consular officer because the officer determines the alien to be excludable under subsection (a), the officer shall provide the alien with a timely written notice that—

"(1) states the determination, and

"(2) lists the specific provision or provisions of law under which the alien is excludable or ineligible for entry or adjustment of status.".

(c) REVIEW OF EXCLUSION LISTS.—The Attorney General and the Secretary of State shall develop protocols and guidelines for updating lookout books and the automated visa lookout system and similar mechanisms for the screening of aliens applying for visas for admission, or for admission, to the United States. Such protocols and guidelines shall be developed in a manner that ensures that in the case of an alien— 8 USC 1182 note.

(1) whose name is in such system, and

(2) who either (A) applies for entry after the effective date of the amendments made by this section, or (B) requests (in writing to a local consular office after such date) a review, without seeking admission, of the alien's continued excludability under the Immigration and Nationality Act,

the alien is no longer excludable because of an amendment made by this section the alien's name shall be removed from such books and system and the alien shall be informed of such removal and if the alien continues to be excludable the alien shall be informed of such determination.

(d) CONFORMING AMENDMENTS TO SECTION 212.—

(1) Subsection (c) of section 212 (8 U.S.C. 1182) is amended by striking "paragraph (1) through (25) and paragraphs (30) and

(31) of subsection (a)" and inserting "subsection (a) (other tha subparagraphs (A), (B), (C), or (E) of paragraph (3))".

8 USC 1182. (2) Subsection (d) of such section is amended—

(A) by striking paragraphs (1), (2), (6), (9), and (10);

(B) in paragraph (3)—

(i) by striking "under one or more of the paragraph enumerated in subsection (a) (other than paragraph (27), (29), and (33))" and inserting "under subsection (a (other than paragraphs (3)(A), (3)(C), and (3)(D) of suc subsection)" each place it appears, and

(ii) by adding at the end the following new sentenc Regulations. "The Attorney General shall prescribe condition including exaction of such bonds as may be necessar to control and regulate the admission and return excludable aliens applying for temporary admissio under this paragraph.";

(C) in paragraph (4), by striking "(26)" and insertir "(7)(B)(i)";

(D) in paragraph (7), by striking "of this section, exce paragraphs (20), (21), and (26)," and inserting "(other tha paragraph (7))";

(E) in paragraph (8), by striking "(26), (27), and (29)" ar inserting "(3)(A), (3)(B), (3)(C), and (7)(B)"; and

(F) by adding at the end the following new paragrap

"(11) The Attorney General may, in his discretion for humar tarian purposes, to assure family unity, or when it is otherwise the public interest, waive application of clause (i) of subsecti (a)(6)(E) in the case of any alien lawfully admitted for permane residence who temporarily proceeded abroad voluntary and n under an order of deportation, and who is otherwise admissible the United States as a returning resident under section 211(b) if t alien has encouraged, induced, assisted, abetted, or aided only t alien's spouse, parent, son, or daughter (and no other individual) enter the United States in violation of law.".

(3) Subsection (g) of such section is amended to read follows:

"(g) The Attorney General may waive the application of—

"(1) section (a)(1)(A)(i) in the case of any alien who—

"(A) is the spouse or the unmarried son or daughter, the minor unmarried lawfully adopted child, of a Unit States citizen, or of an alien lawfully admitted for perm nent residence, or of an alien who has been issued immigrant visa, or

"(B) has a son or daughter who is a United States citize or an alien lawfully admitted for permanent residence, an alien who has been issued an immigrant visa, or

"(2) subsection (a)(1)(A)(ii) in the case of any alien,

in accordance with such terms, conditions, and controls, if ar including the giving of bond, as the Attorney General, in his disc tion after consultation with the Secretary of Health and Hum Services, may by regulation prescribe.".

(4) Subsection (h) of such section is amended to read follows:

Drugs. "(h) The Attorney General may, in his discretion, waive t application of subparagraphs (A)(i)(I), (B), (D), and (E) of subsecti (a)(2) and subparagraph (A)(i)(II) of such subsection insofar as relates to a single offense of simple possession of 30 grams or less

arijuana in the case of an immigrant who is the spouse, parent, on, or daughter of a citizen of the United States or alien lawfully dmitted for permanent residence if—

"(1) it is established to the satisfaction of the Attorney General that—

"(A) the alien is excludable only under subparagraph (D)(i) or (D)(ii) of such subsection or the activities for which the alien is excludable occurred more than 15 years before the date of the alien's application for a visa, entry, or adjustment of status, and

"(B) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States, and

"(C) the alien has been rehabilitated; and

"(2) the Attorney General, in his discretion, and pursuant to such terms, conditions and procedures as he may by regulations prescribe, has consented to the alien's applying or reapplying for a visa, for admission to the United States, or adjustment of status.

o waiver shall be provided under this subsection in the case of an lien who has been convicted of (or who has admitted committing cts that constitute) murder or criminal acts involving torture.".

(5) Subsection (i) of such section is amended to read as follows: 8 USC 1182.

"(i) The Attorney General may, in his discretion, waive applica- on of clause (i) of subsection (a)(6)(C)—

"(1) in the case of an alien who is the spouse, parent, or son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, or

"(2) if the fraud or misrepresentation occurred at least 10 years before the date of the alien's application for a visa, entry, or adjustment of status and it is established to the satisfaction of the Attorney General that the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States.".

(6) Subsection (k) of such section is amended by striking "paragraph (14), (20), or (21)" and inserting "paragraph (5)(A) or (7)(A)(i)".

(7) Subsection (l) of such section is amended by striking "paragraph (26)(B)" and inserting "paragraph (7)(B)(i)".

(e) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the 8 USC 1101 note.
nendments made by this section and by section 603(a) of this Act all apply to individuals entering the United States on or after ne 1, 1991.

(2) The amendments made by paragraphs (5) and (13) of section 03(a) shall apply to applications for adjustment of status made on after June 1, 1991.

EC. 602. REVISION OF GROUNDS FOR DEPORTATION.

(a) REVISED GROUNDS FOR DEPORTATION.—Subsection (a) of section 1 (8 U.S.C. 1251) is amended to read as follows:

"(a) CLASSES OF DEPORTABLE ALIENS.—Any alien (including an ien crewman) in the United States shall, upon the order of the ttorney General, be deported if the alien is deportable as being ithin one or more of the following classes of aliens:

"(1) EXCLUDABLE AT TIME OF ENTRY OR OF ADJUSTMENT OF STATUS OR VIOLATES STATUS.—

"(A) EXCLUDABLE ALIENS.—Any alien who at the time c entry or adjustment of status was within one or more of th classes of aliens excludable by the law existing at such tim is deportable.

"(B) ENTERED WITHOUT INSPECTION.—Any alien who er tered the United States without inspection or at any tim or place other than as designated by the Attorney Genera or is in the United States in violation of this Act or an other law of the United States is deportable.

"(C) VIOLATED NONIMMIGRANT STATUS OR CONDITION O ENTRY.—

"(i) NONIMMIGRANT STATUS VIOLATORS.—Any alie who was admitted as a nonimmigrant and who ha failed to maintain the nonimmigrant status in whic the alien was admitted or to which it was change under section 248, or to comply with the conditions any such status, is deportable.

"(ii) VIOLATORS OF CONDITIONS OF ENTRY.—Any alie whom the Secretary of Health and Human Servic certifies has failed to comply with terms, condition and controls that were imposed under section 212(g) deportable.

"(D) TERMINATION OF CONDITIONAL PERMANENT RES DENCE.—

"(i) IN GENERAL.—Any alien with permanent reside status on a conditional basis under section 216 (relatir to conditional permanent resident status for certa alien spouses and sons and daughters) or under sectic 216A (relating to conditional permanent resident stat for certain alien entrepreneurs, spouses, and childre who has had such status terminated under such sectic is deportable.

"(ii) EXCEPTION.—Clause (i) shall not apply in th cases described in section 216(c)(4) (relating to certa hardship waivers).

"(E) SMUGGLING.—

"(i) IN GENERAL.—Any alien who (prior to the date entry, at the time of entry, or within 5 years of the da of entry) knowingly has encouraged, induced, assiste abetted, or aided any other alien to enter or to try enter the United States in violation of law is depo able.

"(ii) WAIVER AUTHORIZED.—The Attorney Gener may, in his discretion for humanitarian purposes, assure family unity, or when it is otherwise in th public interest, waive application of clause (i) in th case of any alien lawfully admitted for permane residence if the alien has encouraged, induced, assiste abetted, or aided only the alien's spouse, parent, son, daughter (and no other individual) to enter the Unit States in violation of law.

"(F) FAILURE TO MAINTAIN EMPLOYMENT.—Any alien wh obtains the status of an alien lawfully admitted for te porary residence under section 210A who fails to meet th requirement of section 210A(d)(5)(A) by the end of the a plicable period is deportable.

"(G) MARRIAGE FRAUD.—An alien shall be considered to be deportable as having procured a visa or other documentation by fraud (within the meaning of section 212(a)(5)(C)(i)) and to be in the United States in violation of this Act (within the meaning of subparagraph (B)) if—

"(i) the alien obtains any entry into the United States with an immigrant visa or other documentation procured on the basis of a marriage entered into less than 2 years prior to such entry of the alien and which, within 2 years subsequent to any entry of the alien in the United States, shall be judicially annulled or terminated, unless the alien establishes to the satisfaction of the Attorney General that such marriage was not contracted for the purpose of evading any provisions of the immigration laws, or

"(ii) it appears to the satisfaction of the Attorney General that the alien has failed or refused to fulfill the alien's marital agreement which in the opinion of the Attorney General was made for the purpose of procuring the alien's entry as an immigrant.

"(H) WAIVER AUTHORIZED FOR CERTAIN MISREPRESENTATIONS.—The provisions of this paragraph relating to the deportation of aliens within the United States on the ground that they were excludable at the time of entry as aliens described in section 212(a)(6)(C)(i), whether willful or innocent, may, in the discretion of the Attorney General, be waived for any alien (other than an alien described in paragraph (6) or (7)) who—

"(i) is the spouse, parent, son, or daughter of a citizen of the United States or of an alien lawfully admitted to the United States for permanent residence; and

"(ii) was in possession of an immigrant visa or equivalent document and was otherwise admissible to the United States at the time of such entry except for those grounds of inadmissibility specified under paragraphs (5)(A) and (7)(A) of section 212(a) which were a direct result of that fraud or misrepresentation.

A waiver of deportation for fraud or misrepresentation granted under this subparagraph shall also operate to waive deportation based on the grounds of inadmissibility at entry directly resulting from such fraud or misrepresentation.

"(2) CRIMINAL OFFENSES.—

"(A) GENERAL CRIMES.—

"(i) CRIMES OF MORAL TURPITUDE.—Any alien who—

"(I) is convicted of a crime involving moral turpitude committed within five years after the date of entry, and

"(II) either is sentenced to confinement or is confined therefor in a prison or correctional institution for one year or longer,

is deportable.

"(ii) MULTIPLE CRIMINAL CONVICTIONS.—Any alien who at any time after entry is convicted of two or more crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of

whether confined therefor and regardless of whether the convictions were in a single trial, is deportable.

"(iii) AGGRAVATED FELONY.—Any alien who is convicted of an aggravated felony at any time after entry is deportable.

"(iv) WAIVER AUTHORIZED.—Clauses (i), (ii), and (iii) shall not apply in the case of an alien with respect to a criminal conviction if the alien subsequent to the criminal conviction has been granted a full and unconditional pardon by the President of the United States or by the Governor of any of the several States.

"(B) CONTROLLED SUBSTANCES.—

"(i) CONVICTION.—Any alien who at any time after entry has been convicted of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), other than a single offense involving possession for one's own use of 30 grams or less of marijuana, is deportable.

"(ii) DRUG ABUSERS AND ADDICTS.—Any alien who is, or at any time after entry has been, a drug abuser or addict is deportable.

"(C) CERTAIN FIREARM OFFENSES.—Any alien who at any time after entry is convicted under any law of purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying in violation of any law, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United States Code) is deportable.

"(D) MISCELLANEOUS CRIMES.—Any alien who at any time has been convicted (the judgment on such conviction becoming final) of, or has been so convicted of a conspiracy to violate—

"(i) any offense under chapter 37 (relating to espionage), chapter 105 (relating to sabotage), or chapter 115 (relating to treason and sedition) of title 18, United States Code, for which a term of imprisonment of five or more years may be imposed;

"(ii) any offense under section 871 or 960 of title 18, United States Code;

"(iii) a violation of any provision of the Military Selective Service Act (50 U.S.C. App. 451 et seq.) or the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.); or

"(iv) a violation of section 215 or 278 of this Act,

is deportable.

"(3) FAILURE TO REGISTER AND FALSIFICATION OF DOCUMENTS.—

"(A) CHANGE OF ADDRESS.—An alien who has failed to comply with the provisions of section 265 is deportable unless the alien establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful.

"(B) FAILURE TO REGISTER OR FALSIFICATION OF DOCUMENTS.—Any alien who at any time has been convicted—

"(i) under section 266(c) of this Act or under section 36(c) of the Alien Registration Act, 1940,

"(ii) of a violation of, or a conspiracy to violate, any provision of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.), or

"(iii) of a violation of, or a conspiracy to violate, section 1546 of title 18, United States Code (relating to fraud and misuse of visas, permits, and other entry documents),

is deportable.

"(4) SECURITY AND RELATED GROUNDS.—

"(A) IN GENERAL.—Any alien who has engaged, is engaged, or at any time after entry has engaged in—

"(i) any activity to violate any law of the United States relating to espionage or sabotage or to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information,

"(ii) any other criminal activity which endangers public safety or national security, or

"(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means,

is deportable.

"(B) TERRORIST ACTIVITIES.—Any alien who has engaged, is engaged, or at any time after entry has engaged in any terrorist activity (as defined in section 212(a)(3)(B)(iii)) is deportable.

"(C) FOREIGN POLICY.—

"(i) IN GENERAL.—An alien whose presence or activities in the United States the Secretary of State has reasonable ground to believe would have potentially serious adverse foreign policy consequences for the United States is deportable.

"(ii) EXCEPTIONS.—The exceptions described in clauses (ii) and (iii) of section 212(a)(3)(C) shall apply to deportability under clause (i) in the same manner as they apply to excluability under section 212(a)(3)(C)(i).

"(D) ASSISTED IN NAZI PERSECUTION OR ENGAGED IN GENOCIDE.—Any alien described in clause (i) or (ii) of section 212(a)(3)(E) is deportable.

"(5) PUBLIC CHARGE.—Any alien who, within five years after the date of entry, has become a public charge from causes not affirmatively shown to have arisen since entry is deportable.".

b) CONFORMING AMENDMENTS TO SECTION 241.—

(1) Subsections (b), (c), (f), and (g) of section 241 are repealed. 8 USC 1251.

(2) Subsection (e) of such section is amended—

(A) by striking "subsection (a) (6) or (7) of this section" and inserting "paragraph (4) of subsection (a)", and

(B) by redesignating such subsection as subsection (b).

c) SAVINGS PROVISION.—Notwithstanding the amendments made 8 USC 1251 note.
his section, any alien who was deportable because of a conviction
ore the date of the enactment of this Act) of an offense referred
in paragraph (15), (16), (17), or (18) of section 241(a) of the
migration and Nationality Act, as in effect before the date of the
ctment of this Act, shall be considered to remain so deportable.
ept as otherwise specifically provided in such section and subsec-
(d), the provisions of such section, as amended by this section,
ll apply to all aliens described in subsection (a) thereof notwith-

standing that (1) any such alien entered the United States before t
date of the enactment of this Act, or (2) the facts, by reason of whi
an alien is described in such subsection, occurred before the date
the enactment of this Act.

8 USC 1161 note.

(d) EFFECTIVE DATE.—The amendments made by this section, a
by section 603(b) of this Act, shall not apply to deportation proce
ings for which notice has been provided to the alien before March
1991.

SEC. 603. CONFORMING AMENDMENTS.

(a) RELATING TO GROUNDS FOR EXCLUSION.—

(1) Section 101 (8 U.S.C. 1101) is amended—

(A) in subsection (f)(3), by striking "paragraphs (11), (1
and (31)" and inserting "paragraphs (2)(D), (6)(E), a
(9)(A)",

(B) in subsection (f)(3), by striking "paragraphs (9) a
(10) of section 212(a) and paragraph (23)" and inserti
"subparagraphs (A) and (B) of section 212(a)(2) and subpa
graph (C) thereof", and

(C) in subsection (h), by striking "212(a)(34)" and insert
"212(a)(2)(E)".

(2) Section 102 (8 U.S.C. 1102) is amended—

(A) by striking "(27)" in paragraphs (1) and (2) and ins
ing "(3) (other than subparagraph (E))", and

(B) by striking "paragraphs (27) and (29)" in paragraph
and inserting "paragraph (3) (other than subparagra
(E))".

(3) Section 203(a)(7) (8 U.S.C. 1153(a)(7)) is amended by strik
"section 212(a)(14)" and inserting "section 212(a)(5)".

(4) Sections 207(c)(3) and 209(c) (8 U.S.C. 1157(c)(3), 1159(c))
each amended—

(A) by striking "(14), (15), (20), (21), (25), and (32)"
inserting "(4), (5), and (7)(A)", and

(B) by striking "(other than paragraph" and all t
follows through "narcotics)" and inserting "(other t
paragraph (2)(C) or subparagraphs (A), (B), (C), or (E
paragraph (3))".

(5) Section 210 (8 U.S.C. 1160) is amended—

(A) in subsection (a)(3)(B)(i), by striking "212(a)(19)"
inserting "212(a)(6)(C)(i)",

(B) in subsection (c)(2)(A), by striking "(14), (20), (21),
and (32)" and inserting "(5) and (7)(A)",

(C) in subsection (c)(2)(B)(ii)(I), by striking "Paragraph
and (10)" and inserting "Paragraphs (2)(A) and (2)(B)",

(D) in subsection (c)(2)(B)(ii)(II), by striking "(15)"
inserting "(4)",

(E) in subsection (c)(2)(B)(ii)(III), by striking "(23)"
inserting "(2)(C)",

(F) in subsection (c)(2)(B)(ii)(IV), by striking "Paragra
(27), (28), and (29) (relating to national security and m
bers of certain organizations)" and inserting "Paragrap
(relating to security and related grounds), other t
subparagraph (E) thereof",

(G) in subsection (c)(2)(B)(ii), by striking subclause
and

(H) in subsection (c)(2)(C), by striking "212(a)(15)"
inserting "212(a)(4)".

(6) Section 210A(e) (8 U.S.C. 1161(e)) is amended—

(A) in paragraph (1), by striking "(14), (20), (21), (25), and (32)" and inserting "(5) and (7)(A)",

(B) in paragraph (2)(B)(i), by striking "Paragraphs (9) and (10)" and inserting "Paragraphs (2)(A) and (2)(B)",

(C) in paragraph (2)(B)(ii), by striking "(23)" and inserting "(2)(C)",

(D) in paragraph (2)(B)(iii), by striking "(27), (28), and (29) (relating to national security and members of certain organizations)" and inserting "and (3) (relating to security grounds), other than subparagraph (E) thereof",

(E) in paragraph (2)(B)(iv), by striking "(33)" and inserting "(3)(D)", and

(F) in paragraph (2)(C), by striking "212(a)(15)" and inserting "212(a)(4)".

(7) Section 211(b) (8 U.S.C. 1181(b)) is amended by striking "212(a)(20)" and inserting "212(a)(7)(A)".

(8) Section 213 (8 U.S.C. 1183) is amended—

(A) by striking "(7) or (15)" and inserting "(4)", and

(B) by inserting before the period at the end the following: ", irrespective of whether a demand for payment of public expenses has been made".

(9) Section 221(g) (8 U.S.C. 1201(g)) is amended by striking "212(a)(7), or section 212(a)(15)" and inserting "212(a)(4)".

(10) Section 234 (8 U.S.C. 1224) is amended by striking "paragraphs (1), (2), (3), (4), or (5)" and inserting "paragraph (1)" each place it appears.

(11) Section 235 (8 U.S.C 1225) is amended by striking "paragraph (27), (28), or (29) of section 212(a)" and inserting "subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3)".

(12) Section 236(d) (8 U.S.C. 1226(d)) is amended—

(A) by striking "is afflicted with a disease" and all that follows through "of section 212(a)" and inserting "has a disease, illness, or addiction which would make the alien excludable under paragraph (1) of section 212(a)", and

(B) by striking the last sentence.

(13) Section 245A(d)(2) (8 U.S.C. 1255a(d)(2)) is amended—

(A) in subparagraph (A), by striking "(14), (20), (21), (25), and (32)" and inserting "(5) and (7)(A)",

(B) in subparagraph (B)(ii)(I), by striking "Paragraphs (9) and (10)" and inserting "Paragraphs (2)(A) and (2)(B)",

(C) in subparagraph (B)(ii)(II), by striking "(15)" and inserting "(4)",

(D) in subparagraph (B)(ii)(III), by striking "(23)" and inserting "(2)(C)",

(E) in subparagraph (B)(ii)(IV), by striking "(27), (28), and (29) (relating to national security and members of certain organizations)" and inserting "(3) (relating to security and related grounds), other than subparagraph (E) thereof",

(F) in subparagraph (B)(ii), by striking subclause (V),

(G) in subparagraph (B)(ii), by striking "212(a)(15)" and inserting "212(a)(4)", and

(H) in subparagraph (B)(iii), by striking "212(a)(15)" and inserting "212(a)(4)".

(14) Section 249 (8 U.S.C. 1259) is amended by striking "212(a)(33)" and inserting "212(a)(3)(E)".

(15) Section 272 (8 U.S.C. 1322)—

(A) in subsection (a)—

(i) by striking "(1) mentally retarded" and all tha follows through "(6) a narcotic drug addict" and inser ing "excludable under section 212(a)(1)", and

(ii) by striking "such disease or disability" and inser ing "the excluding condition";

(B) by striking subsection (b);

(C) by redesignating subsections (c) through (e) as subse tions (b) through (d), respectively; and

(D) by striking "DISABILITY OR AFFLICTED WITH DISEASE" i the heading and inserting "EXCLUSION ON A HEALTI RELATED GROUND".

(16) Section 277 (8 U.S.C. 1327) is amended by strikin "212(a)(9)" and all that follows through "(29)" and insertin "212(a)(2) (insofar as an alien excludable under such section h been convicted of an aggravated felony) or 212(a)(3) (other tha subparagraph (E) thereof)".

(17) The item in the table of contents relating to section 272 amended to read as follows:

"Sec. 272. Bringing in aliens subject to exclusion on a health-related ground.".

(18) Section 21 of the State Department Basic Authorities A of 1956 (22 U.S.C. 2691) is repealed.

Repeal.

(19) Section 14 of Public Law 99-396 is repealed.

Repeal.

(20) Section 584(a)(2) of the Foreign Operations, Expo Financing, and Related Programs Appropriations Act, 1988 ( contained in section 101(e) of Public Law 100-202) is amended

8 USC 1182 and notes.

8 USC 1101 note.

(A) by striking "(14), (15), (20), (21), (25), and (32)" a inserting "(4), (5), and (7)(A)", and

(B) by striking "(other than paragraph" and all th follows through "narcotics)" and inserting "(other th paragraph (2)(C) or subparagraph (A), (B), (C), or (D) paragraph (3))".

(21) Section 901 of the Foreign Relations Authorization A Fiscal Years 1988 and 1989 (Public Law 100-204) is repeal

Repeal.

(22) Section 599E of the Foreign Operations, Export Fina ing, and Related Programs Appropriations Act, 1990 (Pub Law 101-167) is amended by striking "(14), (15), (20), (21), (2 (28) (other than subparagraph (F)), and (32)" and inserting " (5), and (7)(A)".

8 USC 1182 note.

8 USC 1255 note.

(23) Section 301(a)(1) of this Act is amended by striking "or ground specified" and all that follows through "of such Ac and inserting "on a ground specified in paragraph (1)(A), (1)( (1)(C), (3)(A), of section 241(a) of the Immigration and Nation ity Act (other than so much of section 241(a)(1)(A) of such Act relates to a ground of exclusion described in paragraph (2) or of section 212(a) of such Act)".

8 USC 1255a note.

(24) Section 244A(c)(2)(A), as inserted by section 302 of t Act, is amended—

(A) in clause (i), by striking "(14), (20), (21), (25), and (3 and inserting "(5) and (7)(A)";

(B) in clause (iii)(I), by striking "Paragraphs (9) and (1 and inserting "Paragraphs (2)(A) and (2)(B)";

(C) in clause (iii)(II), by striking "(23)" and insert "(2)(C)" and by adding "or" at the end;

(D) in clause (iii)(III), by striking "(27) and (29) (relating national security)" and inserting "(3) (relating to secu

and related grounds)" and by striking "; or" at the end and inserting a period; and

(E) by striking subclause (IV) of clause (iii).

(b) RELATING TO GROUNDS FOR DEPORTATION.—

(1) Section 210A(d)(5)(A) (8 U.S.C. 1161(d)(5)(A)) is amended by striking "241(a)(20)" and inserting "241(a)(1)(F)".

(2) Section 242 (8 U.S.C. 1252) is amended—

(A) in subsection (b), by striking "(4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" and inserting "(2), (3), or (4)", and

(B) in subsection (e), by striking "paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" and inserting "paragraph (2), (3) or (4)".

(3) Sections 243(h)(1) and 244(a) (8 U.S.C. 1253(h)(1), 1254(a)) are each amended by striking "241(a)(19)" and inserting "241(a)(4)(D)".

(4) Section 244 (8 U.S.C. 1254) is amended—

(A) in subsection (a)(2), by striking "paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18)" and inserting "paragraph (2), (3), or (4)", and

(B) in subsection (e)(1), by striking "(4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" in paragraph (2) and inserting "(2), (3), or (4)".

(5) Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) is amended—

(A) by striking "paragraph (1), (2), (4), (5), (6), (7), (10), (11), (12), (14), (15), (16), (17), or (18) of section 241(a)" in paragraph (1) and inserting "under section 241(a) (other than under paragraph (1)(C) or (1)(E) thereof)", and

(B) by striking "enumerated in paragraph (1) in this subsection" in paragraph (2) and inserting "(other than under paragraph (1)(C) or (1)(E) thereof)".

# ITLE VII—MISCELLANEOUS PROVISIONS

## C. 701. BATTERED SPOUSE OR CHILD WAIVER OF THE CONDITIONAL RESIDENCE REQUIREMENT.

(a) IN GENERAL.—Section 216(c)(4) (8 U.S.C. 1186a(c)(4)) is nended—

(1) by striking "or" at the end of subparagraph (A);

(2) in subparagraph (B), by striking "by the alien spouse for good cause";

(3) in subparagraph (B), by striking the period at the end and inserting ", or";

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) the qualifying marriage was entered into in good faith by the alien spouse and during the marriage the alien spouse or child was battered by or was the subject of extreme cruelty perpetrated by his or her spouse or citizen or permanent resident parent and the alien was not at fault in failing to meet the requirements of paragraph (1).";

and

(5) by adding at the end the following: "The Attorney General shall, by regulation, establish measures to protect the confidentiality of information concerning any abused alien spouse or

Regulations.

child, including information regarding the whereabouts of suc spouse or child.".

8 USC 1186a note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a shall apply with respect to marriages entered into before, on, c after the date of the enactment of this Act.

SEC. 702. BONA FIDE MARRIAGE EXCEPTION TO FOREIGN RESIDENC REQUIREMENT FOR MARRIAGES ENTERED INTO DURING CE TAIN IMMIGRATION PROCEEDINGS.

(a) IN GENERAL.—Section 245(e) (8 U.S.C. 1255(e)) is amended-

(1) in paragraph (1), by striking "An alien" and insertir "Except as provided in paragraph (3), an alien", and

(2) by adding at the end the following new paragraph:

"(3) Paragraph (1) and section 204(h) shall not apply with respe to a marriage if the alien establishes by clear and convinci evidence to the satisfaction of the Attorney General that the ma riage was entered into in good faith and in accordance with the la of the place where the marriage took place and the marriage w not entered into for the purpose of procuring the alien's entry as immigrant and no fee or other consideration was given (other than fee or other consideration to an attorney for assistance in prepa tion of a lawful petition) for the filing of a petition under secti 204(a) or 214(d) with respect to the alien spouse or alien son daughter. In accordance with regulations, there shall be only o level of administrative appellate review for each alien under t previous sentence.".

(b) CONFORMING AMENDMENT—Section 204(h) (8 U.S.C. 1154(h)) amended by inserting "except as provided in section 245(e)(3)," aft "Notwithstanding subsection (a),".

8 USC 1254 note.

(c) EFFECTIVE DATE.—The amendments made by this section sh apply to marriages entered into before, on, or after the date of t enactment of this Act.

SEC. 703. 1-YEAR EXTENSION OF DEADLINE FOR FILING APPLICATIC FOR ADJUSTMENT FROM TEMPORARY TO PERMAMENT RE DENCE FOR LEGALIZED ALIENS.

(a) IN GENERAL.—Section 245A(b) (8 U.S.C. 1255a(b)) is amende

(1) in paragraph (1)(A), by striking "one-year period" a inserting "2-year period", and

(2) in paragraph (2)(C), by striking "thirty-first" and insert "43rd".

(b) LATE FEE.—Section 245A(c)(7)(A) (8 U.S.C. 1255a(c)(7)(A)) amended by adding at the end the following: "The Attorney Gene shall provide for an additional fee for filing an application adjustment under subsection (b)(1) after the end of the first yea the 2-year period described in subsection (b)(1)(A).".

SEC. 704. COMMISSION ON AGRICULTURAL WORKERS.

8 USC 1160 note.

(a) 1-YEAR EXTENSION.—Section 304 of the Immigration Refo and Control Act of 1986 (Public Law 99-603) is amended—

(1) in subsection (c), by striking "five" and inserting "six",

(2) in subsection (i), by striking "63" and inserting "

(b) STAFF.—Subsection (f) of such section is amended by strik "competitive service" and inserting "and compensation and ot conditions of service in the civil service".

SEC. 705. IMMIGRATION EMERGENCY FUND.

(a) IN GENERAL.—Section 404(b) (8 U.S.C. 1101 note) is amended—

(1) by inserting "(1)" after "(b)",

(2) by inserting "(for fiscal year 1991 and any subsequent fiscal year)" after "appropriated",

(3) by striking "$35,000,000" and inserting "an amount sufficient to provide for a balance of $35,000,000 in such fund",

(4) by inserting "to carry out paragraph (2) and" after "to be used", and

(5) by adding at the end the following new paragraph:

"(2)(A) Funds which are authorized to be appropriated by paragraph (1), subject to the dollar limitation contained in subparagraph (B), shall be available, by application for the reimbursement of States and localities providing assistance as required by the Attorney General, to States and localities whenever—

"(i) a district director of the Service certifies to the Commissioner that the number of asylum applications filed in the respective district during a calendar quarter exceeds by at least 1,000 the number of such applications filed in that district during the preceding calendar quarter,

"(ii) the lives, property, safety, or welfare of the residents of a State or locality are endangered, or

"(iii) in any other circumstances as determined by the Attorney General.

"(B) Not more than $20,000,000 shall be made available for all localities under this paragraph.

"(C) For purposes of subparagraph (A), the requirement of paragraph (1) that an immigration emergency be determined shall not apply.

"(D) A decision with respect to an application for reimbursement under subparagraph (A) shall be made by the Attorney General within 15 days after the date of receipt of the application.".

(b) EFFECTIVE DATE.—Section 404(b)(2)(A)(i) of the Immigration and Nationality Act, as added by the amendment made by subsection (a)(5), shall apply with respect to increases in the number of asylum applications filed in a calendar quarter beginning on or after January 1, 1989. The Attorney General may not spend any amounts from the immigration emergency fund pursuant to the amendments made by subsection (a) before October 1, 1991. 8 USC 1101 note.

# TITLE VIII—EDUCATION AND TRAINING

Grant programs. Intergovernmental relations. 29 USC 1506.

SEC. 801. EDUCATIONAL ASSISTANCE AND TRAINING.

(a) USE OF FUND.—The Secretary of Labor shall provide for grants to States to provide educational assistance and training for United States workers. The Secretary shall consult with the Secretary of Education in making grants under this section.

(b) ALLOCATION OF FUNDS.—Within the purposes described in subsection (a), funds in the account used under this section shall be allocated among the States based on a formula, established jointly by the Secretaries of Labor and Education, that takes into consideration—

(1) the location of foreign workers admitted into the United States,

(2) the location of individuals in the United States requiring and desiring the educational assistance and training for which the funds can be applied, and

(3) the location of unemployed and underemployed United States workers.

(c) DISBURSEMENT TO STATES.—

(1) Within the purposes and allocations established under this section, disbursements shall be made to the States, in accordance with grant applications submitted to and approved jointly by the Secretaries of Labor and Education, to be applied in a manner consistent with the guidelines established by such Secretaries in consultation with the States. In applying such grants, the States shall consider providing funding to joint labor-management trust funds and other such non-profit organizations which have demonstrated capability and experience in directly training and educating workers.

(2) Not more than 5 percent of the funds disbursed to any State under this section may be used for administrative expenses.

(d) LIMITATION ON FEDERAL OVERHEAD.—The Secretaries shall provide that not more than 2 percent of the amount of funds disbursed to States under this section may be used by the Federal Government in the administration of this section.

(e) ANNUAL REPORT.—The Secretary of Labor shall report annually to the Congress on the grants to States provided under this section.

(f) STATE DEFINED.—In this section, the term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

Approved November 29, 1990.



LEGISLATIVE HISTORY—S. 358 (H.R. 1630) (H.R. 4300):

HOUSE REPORTS: No. 101-187 accompanying H.R. 1630 (Comm. on the Judiciary); No. 101-723, Pt. 1 (Comm. on the Judiciary) and Pt. 2 (Comm. on Ways and Means) both accompanying H.R. 4300; and No. 101-955 (Comm. of Conference).

SENATE REPORTS: No. 101-55 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 135 (1989): July 11-13, considered and passed Senate.
July 31, H.R. 1630 considered and passed House.

Vol. 136 (1990): Oct. 2, 3, H.R. 4300 considered and passed House; S. 358, amended, passed in lieu.
Oct. 26, Senate agreed to conference report.
Oct. 27, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):

Nov. 29, Presidential remarks and statement.

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